CLERK'S COPY.

VOLUME 1
TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1946

No. 673

CARTER H. HARRISON, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE, PETITIONER

vs.

GREYVAN LINES, INC.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR CERTIORARI FILED NOVEMBER 6, 1946
CERTIORARI GRANTED DECEMBER 16, 1946

In the

United States Circuit Court of Appeals

For the Seventh Circuit

No. 8779

GREYVAN LINES, INC.,

Plaintiff-Appellee,

vs.

CARTER H. HARRISON, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE,

Defendant-Appellant.

Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division.

D.J.-1402 The Gunthorp-Warren Printing Co., Chicago—2-13-46—40

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1 Pleas had at a regular term of the District Court of the United States for the Eastern Division of the Northern District of Illinois begun and held in the United States Court Rooms in the City of Chicago in the Division and District aforesaid on the first Monday of October (it being the second day thereof) in the year of our Lord One Thousand Nine Hundred and Forty-Four and of the Independence of the United States of America the 169th year.

Present:

Hon. John P. Barnes, District Judge.
Hon. Philip L. Sullivan, District Judge.
Hon. Michael L. Igoe, District Judge.
Hon. William J. Campbell, District Judge.
Hon. Walter J. La Buy, District Judge.
Hon. Elwyn R. Shaw, District Judge.
Hon. William H. Holly, District Judge.
Roy H. Johnson, Clerk.
William H. McConnell, Marshal.

Friday, October 13, 1944.

Court met pursuant to adjournment.

Present: Honorable William J. Campbell, Trial Judge.

2 IN THE DISTRICT COURT OF THE UNITED STATES

For the Northern District of Illinois

Eastern Division.

Greyvan Lines, Inc., 1338 S. Michigan Boulevard, Chicago, Illinois,
Plaintiff,

vs.

Carter H. Harrison, individually and as Collector of Internal Revenue,
Defendant.

No. 43 C 10.

Be It Remembered, that the above-entitled action was commenced by the filing of the following Complaint, in the above-entitled cause, in the office of the Clerk of the District Court of the United States for the Northern District of Illinois, Eastern Division, on this the 6th day of January, 1943.

3 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—43-C-10)

COMPLAINT.

(1) Plaintiff, Greyvan Lines, Inc., is a corporation organized and existing under the laws of the State of Indiana, and has its office and principal place of business at 1338 S. Michigan Avenue, Chicago, Illinois.

(2) Defendant, Carter H. Harrison, is, and was at all times mentioned herein, the duly appointed, qualified and acting Collector of Internal Revenue for the United States Government, First District of Illinois, stationed at Chicago, Illinois.

(3) This action arises under the act of Congress known as the Social Security Act, passed August 14, 1935, Title VIII, § 801 et seq. and under subchapter (a) of chapter 9 of the Internal Revenue Code (Federal Insurance Con-

tributions Act) § 1400 et seq. (U.S.C.) as amended by the Social Security Act Amendments of 1939.

(4) Plaintiff says that it is an "employer" within the meaning of said acts of Congress above referred to, and that for the years 1937, 1938, 1939, 1940, 1941 and the 1st quarter of 1942, it duly returned under the provisions of said act to the respective authorities entitled to receive the same, full and correct reports of the amount of wages paid to its employees.

(5) Plaintiff says that it collected from its em-
4 ployees the excise tax provided by §§ 801 and 1400 of the Social Security Act and Federal Insurance Contributions Act respectively and paid the same to defendant, Collector of Internal Revenue, together with the assessed full and correct amount of excise tax chargeable against it as employer.

(6) Plaintiff further says that notwithstanding the filing of returns and the payment of the excise taxes levied and assessed in full and correct amount as aforesaid, the defendant as Collector of Internal Revenue, acting under authority of § 3612 (U.S.C.) Internal Revenue Code of 1939 illegally and without basis either in law or in fact, amended said plaintiff's returns and assessed the employer with additional tax for each of the periods hereinafter set forth:

(7) The said defendant determined that the plaintiff had paid additional taxable wages and that there were due from the plaintiff additional taxes under §§ 801 and 1400 of the Social Security Act and Federal Insurance Contributions Acts respectively for the periods and in the amounts as follows:

Period	Tax	Interest and Penalty
1937 (Nov. & Dec. Only)	$ 381.48	$105.21
1938	2235.68	477.64
1939	2606.22	456.67
1940	2954.98	340.19
1941	3296.72	182.16
1942 (1st quarter only)	882.74	16.29

(8) Notice was given the plaintiff of the assessments and of the amounts of taxes and interest stated above and demand was made for the immediate payment thereof.

On the 12th day of August, 1942, after claim for abatement had been disallowed, the plaintiff paid the amount of the tax, interest and penalty for the year 1938, totalling $2,713.32. On the 25th day of September, 1942, within ten days of the receipt of notice and demand for the immediate payment thereof, the plaintiff paid to the defendant as Collector of Internal Revenue the amount of tax and interest above set forth for November and December 1937 and the period from January 1, 1939 to March 31, 1942, and an additional amount of interest of $56.11 making a total payment of $11,278.77. Those payments were made to avoid further penalties and interest because the plaintiff taxpayer had no available remedy except to pay the taxes and sue to recover back.

(9) Plaintiff further says that it prepared and filed with the Collector of Internal Revenue claims for refund for taxes illegally collected (Form 843 Treasury Department, Internal Revenue service) for the period from November 1, 1937 to March 31, 1942 as follows:

Date Filed	Amount of Refund Claimed	Period Covered
Aug. 26, 1942	$2,713.32	1-1-38 to 12-31-38
Oct. 2, 1942	11,278.77	11-1-37 to 12-31-37 and 1-1-39 to 3-31-42
	$13,992.09	

being the full amounts of the illegal taxes as above set forth, which said claims for refund set forth full statements of the reasons for which refund should have been allowed.

(10) Plaintiff says that under date of October 12, 1942 it was notified by registered mail of the disallowance of the aforesaid claim for refund in the amount of $2,713.32 filed on August 26, 1942, copy of which notice of disallowance is attached hereto and marked Exhibit A; under date of November 6, 1942, the plaintiff was notified by registered mail of disallowance of the above claim in the amount of $11,278.77 filed under date of October 2, 1942, copy of which notice of disallowance is attached hereto and marked Exhibit B.

(11) Plaintiff further says that all of the taxes

paid by it as set forth in this complaint and for the recovery of which it filed claims for refund, were assessed against the plaintiff as an alleged employer, and said assessments were fully paid with its own funds. No portion of the tax was withheld from the payments to its independent contractors, whom defendant erroneously contends were employees of the plaintiff, nor was any portion of the taxes so wrongfully assessed against the plaintiff, collected from them.

(12) The defendant, Carter H. Harrison, as Collector of Internal Revenue, amended the tax returns of the plaintiff for the period from November 1, 1937 to March 31, 1942, and assessed and collected taxes in the amounts stated above upon the unwarranted assumption that the plaintiff taxpayer was an employer under contract for hire, of certain owners of motor carrier equipment, whereas, in truth and in fact, the relationship of employer and employee with such owners did not exist; such owners were not employed by the taxpayer under contract of hire; the taxpayer paid to said owners no taxable wages during the period covered by the amended return; the calculations of said defendant were, and are, erroneous and the defendant, in the assessment of said taxes acted without, and contrary to, evidence of the true facts, and assumed to use an arbitrary rate (the amount being unknown to plaintiff) as the basis for the calculation of the alleged wages, whereas in truth and in fact, no contract of employment at any wage existed.

(13) Wherefore, the plaintiff prays judgment against the said Carter H. Harrison, individually and as Collector of Internal Revenue, for the sum of $13,992.09 with interest from the dates of payment of the respective amounts as herein set forth, being excise taxes erroneously and illegally exacted from the plaintiff.

Greyvan Lines, Inc.,
By Wilbur E. Benoy Sgd
2910 A.I.U. Building,
Columbus, Ohio,

George T. Christie Sgd
Chicago, Illinois,
Room 2737 Board of Trade Building,
Attorneys for Plaintiff.

8 PRAECIPE.

To the Clerk:

Issue summons to the Marshal on the foregoing entitled action; endorse "Action for recovery of taxes illegally collected—amount claimed $13,992.09 with interest, as stated in the Complaint", returnable according to law. Make service in accordance with the rules of procedure, Rule #IV, Section (D) (4) and (5) as follows:

By delivering a copy of the summons and of the complaint to the United States Attorney for the Northern District of Illinois, Eastern Division, or to an Assistant United States District Attorney; and also by sending a copy of the summons and of the complaint, by registered mail, to the Attorney General of the United States at Washington, D. C.

Serve Carter H. Harrison, individually and as Collector of Internal Revenue, by delivering a copy of the summons and of the complaint to him.

Wilbur E. Benoy. /Sgd/
Attorney for Plaintiff.

9 EXHIBIT A.

Treasury Department
Washington

October 12, 1942

A&C:A:AA 5-MT
CI-440895

Greyvan Lines, Inc.
1338 South Michigan Avenue
Chicago, Illinois

Sirs:

Reference is made to your claim on Form 843 for refund of $2,713.32, representing taxes and interest under Title VIII of the Social Security Act for the taxable periods from January 1, 1938 through December 31, 1938.

The basis of the claim is that taxes and interest were erroneously paid with respect to remuneration of certain contract carriers and helpers who are not employees of the corporation.

In a letter addressed to you under date of May 13, 1942, this office held that truck owners and the helpers engaged by them in rendering services for the corporation are employees thereof for Federal employment tax purposes. In view of such ruling, the taxes and interest involved in your claim were not erroneously or illegally collected. Your claim is hereby disallowed.

This notice of disallowance is sent by registered mail in accordance with the provisions of Section 3773(a)(2) of the Internal Revenue Code.

Respectfully,

Guy T. Helvering,
Commissioner.

By (signed) Geo. J. Schoeneman,
Deputy Commissioner.

10 EXHIBIT B.

Treasury Department

Washington

Nov. 6, 1942

Refer to:
A&C:A:AA:5-MT
CI-442624

Greyvan Lines, Inc.,
1338 South Michigan Avenue,
Chicago, Illinois.

Sirs:

Reference is made to your claim on Form 843 for refund of $11,278.77, representing taxes and interest under Title VIII of the Social Security Act and the Federal Insurance Contributions Act for the months of November and December, 1937, and the taxable periods from January 1, 1939 through March 31, 1942.

The basis of the claim is that taxes and interest were erroneously paid with respect to the remuneration of certain contract carriers and helpers who are not employees of the corporation.

In a letter addressed to you under date of May 13, 1942, this office held that truck owners and the helpers engaged by them in rendering services for the corporation are em-

ployees thereof for Federal employment tax purposes. In view of such ruling, the taxes and interest involved in your claim were not erroneously or illegally collected. Your claim is hereby disallowed.

This notice of disallowance is sent by registered mail in accordance with the provisions of Section 3772 (a) (2) of the Internal Revenue Code.

Respectfully,

Guy T. Helvering,
Commissioner.

By (signed) Geo. J. Schoeneman,
Deputy Commissioner.

11 And afterwards on, to wit, the 3rd day of February, 1943 there was filed in the Clerk's office of said Court a certain Summons, with Marshal's Return Endorsed Thereon, In Civil Action No. 43 C 10 in words and figures following, to wit:

12 DISTRICT COURT OF THE UNITED STATES.

(Caption—43-C-10)

SUMMONS.

To the above named Defendant:

You are hereby summoned and required to serve upon George T. Christie plaintiff's attorney, whose address Room 2737, Board of Trade Bldg., Chicago, Illinois an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Roy H. Johnson,
Clerk of Court.

(Seal)

By Ann G. Joyce,
Deputy Clerk.

Date: January 6, 1943.

Note.—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

13 MARSHAL'S RETURN.

Served this writ, together with copy of complaint, on the United States of America, by and through J. Albert Woll, US Attorney for the Northern District of Illinois at Chicago, by leaving copies thereof for him at room 450, US Courthouse, Chicago, his usual place of business, with Gordon S. Morgan, Chief Clerk, an agent authorized to accept service for him, at the same time informing him of contents thereof, this 11th day of January, A. D., 1943.

Served this writ, together with copy of complaint, on the Attorney General for the United States of America by mailing copies thereof to him in Washington, D. C., by registered mail (Register No. 867484), this 11th day of January, A. D., 1943.

Served this writ, together with copy of complaint, on the Commissioner of Internal Revenue for the United States of America, by mailing copies thereof to him in Washington, D. C., by registered mail (Register No. 867483), this 11th day of January, A. D. 1943.

Served this writ, together with copy of complaint, on the within named Carter H. Harrison, Individually and as Collector of Internal Revenue, by leaving copies thereof for him at Room 528, U. S. Courthouse, Chicago, his usual place of business, with Lois Vethe, deputy clerk, an agent authorized to accept service for him, at the same time informing her of contents thereof, this 11th day of January, A. D., 1943.

William H. McDonnell,
United States Marshal,
By David Lewis,
Deputy.

1 Sr. 2.00

Form 3806 (Rev. Jan. 21, 1935)

Receipt for Registered Article No. 867483
Registered at the Post Office indicated in the Postmark
Fee paid 10 cents Class postage
Declared value Off Surcharge paid, $
Return Receipt fee G Spl. Del'y fee
Delivery restricted to addressee; in person , or order Fee paid
Accepting employee will place his initials in space indicating restricted delivery.
Postmaster, per (illegible)

(Postmark of) Chicago, Ill. (Old P.O. Annex) Jan. 11 1943 Registered (Mailing Office)

The sender should write the name of the addressee on back hereof as an identification. Preserve and submit this receipt in case of inquiry or application for indemnity.

Registry Fees and Indemnity.—Domestic registry fees range from 15 cents for indemnity not exceeding $5 up to $1 for indemnity not exceeding $1,000. The fee on domestic registered matter without intrinsic value and for which indemnity is not paid is 15 cents. Consult postmaster as to the specific domestic registry fees and surcharges and as to the registry fees chargeable on registered parcel-post packages for foreign countries. Fees on domestic registered C. O. D. mail range from 25 cents to $1.20. Indemnity claims must be filed within one year (C. O. D. six months) from date of mailing.

Form 3806 (Rev. Jan. 21, 1935)

Receipt for Registered Article No. 867484
Registered at the Post Office indicated in the Postmark
Fee paid 10 cents Class postage
Declared value Off Surcharge paid, $
Return Receipt fee G Spl. Del'y fee
Delivery restricted to addressee; in person , or order Fee paid
Accepting employee will place his initials in space indicating restricted delivery.
Postmaster, per (illegible)

(Postmark of) Chicago, Ill. (Old P.O. Annex) Jan. 11 1943 Registered (Mailing Office)

The sender should write the name of the addressee on back hereof as an identification. Preserve and submit this receipt in case of inquiry or application for indemnity.

Registry Fees and Indemnity.—Domestic registry fees range from 15 cents for indemnity not exceeding $5 up to $1 for indemnity not exceeding $1,000. The fee on domestic registered matter without intrinsic value and for which indemnity is not paid is 15 cents. Consult postmaster as to the specific domestic registry fees and surcharges and as to the registry fees chargeable on registered parcel-post packages for foreign countries. Fees on domestic registered C. O. D. mail range from 25 cents to $1.20. Indemnity claims must be filed within one year (C. O. D. six months) from date of mailing.

Endorsed: District Court of the United States * * (Caption—43-C-10) * * Summons in Civil Action. Returnable not later than 60 days after service. Filed Feb. 3, 1943. Roy H. Johnson, Clerk. George T. Christie, Attorney for Plaintiff. Lewis 1-7-43.

14 And afterwards on, to wit, the 12th day of March, 1943 came the Defendant by his attorneys and filed in the Clerk's office of said Court his certain Answer, In Civil Action No. 43 C 10 in words and figures following, to wit:

15 In the District Court of the United States.

* * (Caption—43-C-10) * *

ANSWER.

Comes now Carter H. Harrison, Individually and as Collector of Internal Revenue, defendant in the above-entitled case, and for an answer to plaintiff's complaint herein admits, denies and alleges as follows:

1. The allegations in paragraph 1 are admitted.
2. The allegations in paragraph 2 are admitted.
3. The allegations in paragraph 3 are admitted.
4. Answering paragraph 4 defendant admits that plaintiff is an employer as alleged. Defendant denies the other allegations in paragraph 4.
5. The allegations in paragraph 5 are denied.
6. The allegations in paragraph 6 are denied.
7. The allegations in paragraph 7 are admitted.

8. Answering paragraph 8 defendant admits the
16 allegations contained in said paragraph except that defendant alleges that the total amount of taxes paid by plaintiff was $11,222.66, instead of $11,278.77, as alleged.

9. Answering paragraph 9 defendant admits that plaintiff filed documents purporting to be claims for refund. Defendant denies that any taxes were illegally collected from the plaintiff. Defendant alleges that the amounts collected from plaintiff aggregate $11,222.66, instead of $11,278.77, as set out in plaintiff's claim for refund filed October 2, 1942. Defendant denies that said taxes were illegal, and further denies that the claims for refund set forth fully statements of the reasons for which the refunds should be allowed.

10. The allegations in paragraph 10 are admitted.

11. Answering paragraph 11 defendant admits that the taxes paid by the plaintiff were assessed against plaintiff as an alleged employer, and further admits that said taxes were paid by plaintiff with its own funds. Defendant further admits that no part of the taxes have been collected from plaintiff's alleged employees. Defendant denies all the other allegations contained in paragraph 11.

12. The allegations in paragraph 12 are denied.

13. Answering paragraph 13 defendant denies that plaintiff is entitled to judgment against the defendant for $13,992.09, or any other amount or that said sum represents excise taxes erroneously or illegally exacted from the plaintiff.

Wherefore, defendant having fully answered plaintiff's complaint prays that plaintiff's complaint be dis-
17 missed and that defendant recover its costs and disbursements laid out and expended and for all just and proper relief.

J. Albert Woll,
United States Attorney.

(Affidavit of Service Attached But Not Copied):

18 IN THE DISTRICT COURT OF THE UNITED STATES.
(Caption—43-C-276)

Be It Remembered, that the above-entitled action was commenced by the filing of the following Complaint, in the above-entitled cause, in the office of the Clerk of the District Court of the United States for the Northern District of Illinois, Eastern Division, on this the 17th day of March, 1943.

19 IN THE DISTRICT COURT OF THE UNITED STATES.
(Caption—43-C-276)

COMPLAINT.

(1) Plaintiff, Greyvan Lines, Inc., is a corporation organized and existing under the laws of the State of Indiana, and has its office and principal place of business at 1338 S. Michigan Avenue, Chicago, Illinois.

(2) Defendant, Carter H. Harrison, is and was at all times mentioned herein, the duly appointed, qualified and acting Collector of Internal Revenue for the United States Government, First District of Illinois, stationed at Chicago, Illinois.

(3) This action arises under the Acts of Congress known as the Social Security Act, passed August 14, 1935, Title IX, § 901 et seq., and United States Code, Title 26, Chapter 9, sub-chapter (c) of the Internal Revenue Code, (Federal Unemployment Tax Act), § 1600 et seq. as amended by the Social Security Act amendments of 1939 (United States Code, Title 42, Chapter 7, sub-chapter IX, § 1101 et seq.)

(4) Plaintiff says that it is an "employer" within the meaning of said Acts of Congress above referred to, and that for the years 1937, 1938, 1939, 1940 and 1941, it duly returned under the provisions of said Acts to the respective authorities entitled to receive the same, full and
20 correct reports of the amounts of wages paid to its employees.

(5) Plaintiff says it so filed returns and paid to the defendant, as said Collector of Internal Revenue, the full and correct amount of excise tax chargeable against it as an employer, as provided in said Acts.

(6) Plaintiff further says that notwithstanding the filing of returns and the payment of the excise taxes levied and assessed in full and correct amount, the defendant as Collector of Internal Revenue, acting under authority of the Internal Revenue Code of 1939, (Title 26, § 3612, United States Code), illegally and without basis either in law or in fact, amended said plaintiff's returns and assessed the plaintiff with additional taxes for each of the periods hereinafter set forth.

(7) The said defendant determined that the plaintiff had paid additional taxable wages, and that there were due from the plaintiff additional taxes under said Acts respectively for the periods and in the amounts as follows:

Period	Taxes	Interest and Penalty
1937	$2864.44	$808.64
1938	3358.57	746.61
1939	3918.31	635.94
1940	4432.47	453.44
1941	929.97	85.71

(8) Notice was given the plaintiff of the assessments and of the amounts of taxes, penalties and interest levied as stated above, and demand was made for the immediate payment thereof. On the 30th day of October, 1942, within ten days of the receipt of notice and demand for immediate payment thereof, the plaintiff paid the amount of the tax, interest and penalty assessed for the years 1937, 1938, 1939, 1940 and 1941, totalling $18,234.10. Said payments were made to avoid the assessment of further penalties and interest and because the plaintiff had no available
21 remedy except to pay the taxes and sue to recover back.

(9) Plaintiff further says that it prepared and filed with the Collector of Internal Revenue claims for refund for taxes illegally collected on Form 843, Treasury Department, Internal Revenue Service, being the form provided for that use for the period from January 1, 1937 to December 31, 1941, as follows:

Date Filed	Amount of Refund Claimed	Period Covered
Nov. 20, 1942	$ 1,015.68	11-1-41 to 12-31-41
Jan. 5, 1943	17,218.42	1-1-37 to 12-31-40

being the full amounts of the illegal taxes assessed and collected, as above set forth, which said claims for refund set forth full statements of the reasons for which refund should have been allowed.

(10) Plaintiff says that under date of January 2, 1943, it was notified by registered mail of the disallowance of the aforesaid claim for refund so filed in the amount of $1,015.68, copy of which notice of disallowance is attached hereto and marked Exhibit A. Under date of February 19, 1943, the plaintiff was notified by registered mail of disallowance of the above claim so filed in the amount of $17,218.42, copy of which notice of disallowance is attached hereto and marked Exhibit B.

(11) The defendant, Carter H. Harrison, as Collector of Internal Revenue, amended the tax returns of the plaintiff for the period from January 1, 1937 to December 31, 1941, and assessed and collected taxes, penalties and interest in the amounts stated above upon the unwarranted assumption that the plaintiff was an employer under contract of hire of certain owners of motor carrier equipment, whereas, in truth and in fact, the relationship of employer and employee with such owners did not exist; such owners were not employed by the plaintiff under contract of hire; the plaintiff paid to said owners no taxable wages during the period covered by the amended return; the calculations of said defendant were, and are, erroneous and the defendant, in the assessment of said taxes acted without, and contrary to, evidence of the true facts, and assumed to use an arbitrary rate (the amount being unknown to plaintiff) as the basis for the calculation of the alleged wages, whereas in truth and in fact, no contract of employment at any wage existed.

(12) Wherefore, the plaintiff prays judgment against the said Carter H. Harrison, individually and as Collector of Internal Revenue, for excise taxes erroneously and illegally exacted from the plaintiff in the sum of $18,234.10 with interest at 6% from October 30, 1942, and for its costs herein expended.

Greyvan Lines, Inc.
By Wilbur E. Benoy /Sgd/
2910 A. I. U. Bldg.,
Columbus, Ohio
George T. Christie /Sgd/
2737 Board of Trade Bldg.,
Attorneys for Plaintiff.

Precipe.

To the Clerk:

Issue summons to the Marshal on the foregoing entitled action; endorse "Action for recovery of taxes illegally collected amount claimed $18,234.10 with interest, as stated in the Complaint", returnable according to law. Make service in accordance with the rules of procedure, Rule #IV, Section (D) (4) and (5) as follows:

23 By delivering a copy of the summons and of the complaint to the United States Attorney for the Northern District of Illinois, Eastern Division, or to an Assistant United States District Attorney; and also by sending a copy of the summons and of the Complaint by registered mail, to the Attorney General of the United States at Washington, D. C.

Serve Carter H. Harrison, individually and as Collector of Internal Revenue, by delivering a copy of the summons and of the Complaint to him.

Wilbur E. Benoy /Sgd/
George T. Christie
Attorneys for Plaintiff.

24 EXHIBIT A.

January 2, 1943.

A&G:A:AA:3-CO
C1-760720

Greyvan Lines, Inc.,
1338 South Michigan Avenue,
Chicago, Illinois

Sirs:

Reference is made to your claim for refund of $1,015.68, representing an alleged overpayment of excise tax, interest and penalty for the calendar year 1941 imposed under the Federal Unemployment Tax Act. The basis of the claim is that certain truck owner-operators performing services for your corporation are not your employees.

It has been held by the Bureau that the truck owner-operators in question and their assistants who rendered services for your corporation were your employees for employment tax purposes. Inasmuch as no additional infor-

mation has been furnished which would warrant a reversal of the office ruling referred to above, your claim for refund is disallowed.

This notice of disallowance is sent to you by registered mail in accordance with the provisions of Section 3772(A)(2) of the Internal Revenue Code.

Respectfully,
Guy T. Helvering,
Commissioner.
By (signed) Geo. J. Schoeneman,
Deputy Commissioner.

25 Treasury Department
Washington

February 19, 1943.

A&C:A:AA:3-CO
C1-762544, et al.

Greyvan Lines, Inc.,
1338 South Michigan Avenue,
Chicago, Illinois.

Sirs:

Reference is made to your claims for refund of tax and interest paid under Title IX of the Social Security Act and the Federal Unemployment Tax Act, filed as follows:

Claim Number	Year	Amount Claimed
762544	1937	$3,673.08
762545	1938	4,105.18
762546	1939	4,554.25
762547	1940	4,885.91

The basis of the claims is that certain truck owner-operators performing services for your corporation were not your employees.

It has been held by the Bureau that the truck owner-operators in question and their assistants who rendered services for your corporation were your employees for employment tax purposes. Inasmuch as no additional information has been furnished which would warrant a reversal

of the office ruling referred to above, your claims for refund are disallowed.

This notice of disallowance is sent to you by registered mail, in accordance with the provisions of Section 3772 (a) (2) of the Internal Revenue Code.

Respectfully,
Guy T. Helvering,
Commissioner.
By (signed) Victor H. Self,
Acting Deputy Commissioner.

26 And afterwards on, to wit, the 19th day of March, 1943, there was filed in the Clerk's office of said Court a certain Summons, With Marshal's Return Endorsed Thereon, in Civil Action No. 43 C 276, in words and figures following, to wit:

27 DISTRICT COURT OF THE UNITED STATES.

(Caption—43-C-276)

SUMMONS.

To the above named Defendant:

You are hereby summoned and required to serve upon George T. Christie, plaintiff's attorney, whose address is 2737 Board of Trade Bldg., Chicago, Illinois an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Roy H. Johnson,
Clerk of Court.
(Seal)
By Ann G. Joyce,
Deputy Clerk.

Date: March 17, 1943.

Note.—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

Marshal's Return

1 Ser $2.00

Served this writ, together with copy of Complaint, on the within named Carter H. Harrison, individually and as Collector of Internal Revenue, by leaving copies thereof for him at Room 528, US Courthouse, Chicago, his usual place of business, with Hope Hamilton, Deputy Collector, an agent authorized to accept service for him, at the same time informing her of contents thereof, this 18th day of March, A. D., 1943.

Served this writ, together with copy of Complaint, on J. Albert Woll, US Attorney for the Northern District of Illinois, by leaving copies thereof for him at Room 450, US Courthouse, Chicago, his usual place of business, with Gordon S. Morgan, Chief Clerk, an agent authorized to accept service for him, at the same time informing him of contents thereof, this 18th day of March, A. D., 1943.

Served this writ, together with copy of Complaint, on The Attorney General for the United States of America by mailing copies thereof to him in Washington, D. C. by registered mail (Register No. 893446) this 18th day of March, A. D., 1943.

Served this writ, together with copy of Complaint, on The Commissioner of Internal Revenue for the United States of America by mailing copies thereof to him in Washington, D. C. by registered mail (Register No. 893445), this 18th day of March, A. D., 1943.

William H. McDonnell,
United States Marshal.
By David Lewis,
Deputy.

Endorsed: District Court of the United States. (Caption—43-C-276). Summons in Civil Action. Returnable not later than 60 days after service. George T. Christie, Attorney for Plaintiff. Filed Mar. 19, 1943, Roy H. Johnson, Clerk.

And afterwards on, to wit, the 14th day of May, 1943, came the Defendant by his attorneys and filed in the Clerk's office of said Court his certain Answer, In Civil Action No. 43 C 276, in words and figures following, to wit:

IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—43-C-276)

ANSWER.

Comes now the defendant, Carter H. Harrison, individually and as Collector of Internal Revenue, by his attorney, J. Albert Woll, United States Attorney for the Northern District of Illinois, Eastern Division, and for an answer to plaintiff's complaint herein, admits, denies and alleges as follows:

1. The allegations of paragraph 1 are admitted.
2. The allegations of paragraph 2 are admitted.
3. The allegations of paragraph 3 are admitted.
4. Answering paragraph 4 defendant admits plaintiff is and was an employer as alleged. The remaining allegations in paragraph 4 are denied.
5. The allegations of paragraph 5 are denied.
6. The allegations of paragraph 6 are denied.
7. The allegations of paragraph 7 are admitted.
8. The allegations of paragraph 8 are admitted.
9. Answering paragraph 9 defendant admits that plaintiff prepared and filed claims for refund on Form 843 covering the periods and amounts alleged. The remaining allegations in paragraph 9 are denied.
10. The allegations of paragraph 10 are admitted.
11. The allegations of paragraph 11 are denied.
12. Defendant denies plaintiff is entitled to recover any sums whatever from the defendant herein.

Wherefore, defendant having fully answered plaintiff's complaint prays that said complaint be dismissed and that defendant have judgment for its costs and all just and proper relief.

J. Albert Woll,
United States Attorney.

32 State of Illinois } ss.
County of Cook }

Terence Giblin, being first duly sworn on oath deposes and says that he is employed as Clerk in the office of the United States Attorney for the Northern District of Illinois; that on the 14th day of May, A. D. 1943, he placed a copy of the foregoing Answer in a Government franked envelope addressed to the following:

George T. Christie, Esquire
2737 Board of Trade Building
Chicago, Illinois

and that he placed said envelope, so addressed and containing said copy of the foregoing Answer, in the mail chute located in the United States Court House, Chicago, Illinois, on said date.

Terence Giblin.

Subscribed and sworn to before me this 14th day of May, A. D. 1943.

Anna L. Minahan,
(Seal) *Notary Public.*

33 And afterwards, to wit, on the 7th day of June, 1943, being one of the days of the regular June term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable William J. Campbell, District Judge, appears the following entry, to wit:

34 In the District Court of the United States.

* * (Caption—43C10) * *

Monday June 7, A. D. 1943.

Present: Honorable William J. Campbell, District Judge.

This cause having come on for pre-trial conference and pre-trial conference having now been held and the issues of this case having been discussed together with the issues in Case No. 43C276

Plaintiff agrees to arrange for the Government to inter-

view necessary number of owner-driver associates of plaintiff company and the parties hereto are directed to meet in conference for the purpose of discussing and agreeing upon facts to be included in the contemplated stipulation.

Further, plaintiff is directed to file its brief and arguments in support of its position within fifteen (15) days from the date of filing of agreed stipulation of facts and the defendant is directed to file his brief and arguments in reply thereto within thirty (30) days thereafter and plaintiff is directed to file reply thereto within ten (10) days thereafter.

Whereupon this cause will be taken by the Court for disposition without further argument.

And afterwards on, to wit, the 1st day of February, 1944 came the Parties by their attorneys and filed in the Clerk's office of said Court their certain Stipulation in words and figures following, to wit:

35 IN THE DISTRICT COURT OF THE UNITED STATES.
(Caption 43-C-10—43-C-276)

STIPULATION.

It is hereby stipulated and agreed by and between the parties in the above entitled proceeding by their respective attorneys that the following facts shall be taken as true, each, however, reserving the right to introduce other and further evidence not inconsistent with the facts herein stipulated and reserving the right to object to the consideration of such stipulated facts on the grounds of immateriality, irrelevancy and incompetency:

1. Carter H. Harrison, hereinafter referred to as the "Collector", at the time stated in the complaints, was the duly appointed, qualified, and acting Collector of Internal Revenue for the First District of Illinois. Said Collector in the year 1942, acting under Section 3612 of the Internal Revenue Code, and the authority conferred on

him thereunder, executed amended tax returns for the plaintiff under the Federal Unemployment Tax Act (formerly Title IX of the Social Security Act) for the
36 years 1937, 1938, 1939, 1940 and 1941. Thereafter the Commissioner of Internal Revenue, in October of 1942, assessed the plaintiff with additional tax, interest and penalty in the amounts as set forth in paragraph 7 of the complaint in case numbered 43 C 276, viz:

Period	Taxes	Interest & Penalty
1937	$2864.44	$808.64
1938	3358.57	746.61
1939	3918.31	635.94
1940	4432.47	453.44
1941	929.97	85.71
	$15503.76	$2730.34

Total additional tax, interest and penalty assessed and paid under the Federal Unemployment Tax Act being in the sum of $18,234.10.

2. Said Collector determined that the plaintiff had paid, during the years aforesaid, in addition to the amounts reported in the company's returns previously made by it, total taxable wages in additional amounts set forth in the aggregate on said supplemental returns and upon which it was claimed plaintiff owed the additional taxes, interest and penalty set forth in paragraph 1 hereof.

Copies of the supplemental returns upon which the assessment of the Federal Unemployment Tax for the years aforesaid were made are attached hereto, marked Exhibits A, B, C, D and E, and made a part hereof.

3. Said Collector, in the year 1942, acting under Section 3612 of the Internal Revenue Code, and the authority conferred on him thereunder, executed amended tax returns for the plaintiff under the Federal Insurance Contributions Act (formerly Title VIII of the Social Security Act) covering the months of November and December 1937 and the years 1938, 1939, 1940 and 1941, and the months of
37 January, February and March of 1942. Thereafter the Commissioner of Internal Revenue, in August of 1942, assessed the plaintiff with additional tax, interest and

penalty as set forth in paragraph 7 of the complaint filed in case numbered 43 C 10, to wit:

Period	Tax	Interest & Penalty
1937 (Nov. & Dec. only)	$381.48	$105.21
1938	2235.68	477.64
1939	2606.22	456.67
1940	2954.98	340.19
1941	3296.72	182.16
1942 (1st quarter)	882.74	16.29
Total	$12357.82	1578.16
Additional interest		56.11
		$1634.27

Total additional tax, interest and penalty assessed and paid under the Federal Insurance Contributions Act being in the sum of $13,992.09.

4. Said Collector determined that the plaintiff had paid, during the periods aforesaid, in addition to the amounts reported in the company's returns previously made by it, total taxable wages as set forth on said supplemental returns and upon which it was claimed plaintiff owed the additional taxes, interest and penalty, set forth in paragraph 3 hereof.

The supplemental returns for November and December, 1937, as prepared by the Collector, are set forth on two separate sheets, a photostat copy of each of said sheets is hereto attached and the whole marked Exhibit F, and made a part hereof.

The supplemental returns as prepared by the said
38 Collector for the year 1941, are set forth in 12 separate sheets. A photostatic copy of each of said 12 sheets is hereto attached and the whole marked Exhibit H, and made a part hereof.

The supplemental returns, as prepared by the said Collector, for the quarter ending March 31, 1942, are set forth on two separate sheets. A photostatic copy of each of said two sheets is hereto attached and the whole marked Exhibit I, and made a part hereof.

5. While Exhibits F, G, H and I were prepared with respect to additional contributions claimed to be due under the Federal Insurance Contributions Act (formerly

Title VIII, Social Security Act), they were adopted and used by the Collector as a part of the returns upon which the amounts were assessed, during the aforesaid periods, under the Federal Unemployment Tax Act (Title IX of the Social Security Act).

6. Scheduled on Exhibits F, G, H and I are certain truckmen who owned and operated two trucks. The assessments with respect to such truckmen are indicated by doubling the amount of the assessment. For example, see W. Lange, Exhibit H, page 1. The truckmen so operating two trucks were Don Foote, Wm. H. Lange, J. M. Lichtenberg, H. Morgan, Glenn Suess and H. C. Stevens. In such cases the claimed wages, as computed by the Collector for both trucks, are listed in Exhibits F, G, H and I opposite their respective names, subject, however, to a limitation of $3000 per annum in the assessments made under the Federal Contributions Act.

7. The figures in Exhibits F, G, H and I, following the words "unknown Helpers" and "Dummy" (See sheet 26 of Exhibit G) represents amounts found by the Collector to be wages paid by the truckmen or their drivers to such helpers.

8. In the amended returns executed for the plaintiff by the Collector for Federal Unemployment taxes and Federal Insurance Contributions taxes, the following method was used by the Collector in computing the wages:

(a) As to the truckmen, the union wage scale payable by plaintiff to its employees engaged in driving equipment owned by the company itself to December 31, 1941, was $36.00 per week of 48 hours each. He assumed that the equipment would be laid up for repairs and vacation periods at least eight weeks out of the fifty-two weeks in the year. He therefore determined that if the truckman was an employee, he would be paid for forty-four weeks of the year at $36.00 per week or $1584.00 per year. Dividing $1584.00 by 12 months, he arrived at a claimed average wage for the truckmen of $132.00 per month and applied this $132.00 per month, as the basis of "wage" upon which the supplemental returns, Exhibits A to H, inclusive, were computed as against the truckmen engaged under the truckmen's contract.

In Exhibit I the same method of computation was followed, except that the assumed wage rate used was $42.50 per week. Effective January 1, 1942, the union wage scale

payable to plaintiff's employees engaged in driving equipment owned by the company was raised to $42.50 per week of 48 hours each.

(b) As to the unknown helpers so used by the truckmen, the Collector assumed that the helpers' wages would be 41.67% of the amount determined and set up by him as the truckmen's "wages" and added in, as a "lump sum", the calculated amounts in each supplemental return. The amounts of said calculated "wages" on account of "unknown helpers" are as follows:

"On sheet 2 of Exhibit "F", covering the month of November and December, 1937	$5,610.00
On sheet 26 of Exhibit "G", whereon the name of the employee is carried in the space provided therefor as "Dummy" for the years 1938 to 1940, inclusive	114,810.00
On Exhibit "H" for the year 1941	48,484.00
On Exhibit "I" for the quarter ending March 31, 1942	12,982.00
Total calculated "wages"	$181,886.00

The full amount of such calculated wages, plus the deductions incident to Title VIII assessments, also appears in the assessments levied under Title IX, Exhibits A to E, inclusive.

(c) From January 1, 1937 to February 15, 1940, a partnership consisting of Fred H. Goldsmith and Howard W. Hutchins, had a truckman's contract with plaintiff. The assessments respecting such partnership operated truck appear in Exhibits F and G under the name of F. H. Goldsmith. On and after February 15, 1940, the said partnership was dissolved and Howard W. Hutchins, as an individual thereupon executed a truckman's contract with plaintiff.

9. The additional assessment under the Federal Unemployment Tax Act (Title IX) in the total amount of $18,234.10, including accrued interest and penalty, was made and a "Notice and Demand" for the payment of tax due on Form SS17, Treasury Department, Internal Revenue Service, was duly served upon plaintiff and on the 30th day of October, 1942, plaintiff paid said tax, interest and penalty in the said total amount of $18,234.10.

10. Plaintiff thereupon filed with the Collector claims for refund for the taxes, penalty and interest so
41 claimed by plaintiff to be illegally collected, on Form 843, Treasury Department, Internal Revenue Service, being the Form provided for that use, for the periods aforesaid, and on January 2, 1943, plaintiff was duly notified of the disallowance of said claims for refund, after receipt of which notice of disallowance Cause No. 43 C 276 was filed.

11. The additional assessment under the Federal Insurance Contributions Act (Title VIII), together with interest and penalty, amounting to $13,992.09, was so made and "Notice and Demand" for payment of the tax, on Form SS17 was duly served on plaintiff, and on August 12, 1942, plaintiff paid the sum of $2713.32, and on September 25, 1942, plaintiff paid the sum of $11,278.77, making the combined total paid under said assessment of $13,992.09.

12. Plaintiff duly filed on Form 843, Treasury Department, Internal Revenue Service, being the Form provided for that purpose, with said Collector, claims for refund of the said tax claimed to be illegally collected. Thereafter plaintiff was duly notified of the disallowance of said claims for refund, after receipt of which notice of disallowance Cause No. 43 C 10 was filed.

J. Albert Woll,
J. Albert Woll,
United States Attorney,
Attorney for the Defendant.

Wilbur E. Bendy,
George T. Christie,
Attorneys for the Plaintiff.

42 **EXHIBIT "A".**

"Amended".

Form 940
Treasury Department
Internal Revenue Service

Annual Return Of Excise Tax On Employers Of Eight Or More Individuals

Under Title IX of the Social Security Act

For Calendar Year 1937

File This Return With The Collector Of Internal Revenue For Your District Not Later Than January 31, 1938

Read Instructions Carefully

(Collector's receipt stamp)	Do not write in this space No.
Taxpayer's Copy	Amount Paid, $ (Cashier's stamp)

Print Name And Address
Greyvan Lines, Inc.
(Name) (See Instruction 1)
1338 S. Michigan Ave.
(Street and number or rural route)
Chicago, Cook, Illinois
(Post office) (County) (State)

Nature of business in detail (Instruction 4) Long Distance Moving of Household Goods.

Check (√) form of organization: ☒ Corporation; ☐ Partnership; ☐ Individual; ☐ Estate or trust.

1. Total wages paid or payable for the calendar year. (See instructions on reverse side)		$305,637.79
2. Less wages paid or payable for (explain on Schedule B if deductions are taken)—		
(a) Services performed outside the United States	$	
(b) Agricultural labor		
(c) Domestic service		
(d) Service of an officer or member of the crew of a vessel on the navigable waters of the United States		
(e) Family employment		$
3. Total wages subject to tax (Item 1 minus Item 2)		$305,637.79
4. Tax (2% of Item 3)		6,112.76
5. Less: Credit for contributions actually paid into State unemployment funds. (Read carefully instructions on reverse side under Schedule A before entering this item)		2,663.40
6. Balance of tax (Item 4 minus 5)		$ 3,449.36
Previously Paid		584.92
		2,864.44

Affidavit (See Instruction No. 5)

I we swear (or affirm) that this return, including any accompanying schedules or statements, is a true, correct, and complete return, made in good faith, for the calendar year stated, pursuant to Title IX of the Social Security Act and Regulations issued thereunder and that no portion of the credit claimed in Item 5 above is with respect to a contribution made to any State fund on account of service performed outside the United States as outlined in Instruction 9, or for excepted service as outlined in Instruction 10.

nor is any part of such credit with respect to money deducted or to be deducted from the wages of individuals in my/our employ.

(Corp.)
(Seal) .....(Name) .....(Title)

.....(Name) .....(Title)

Signed or acknowledged before—

.....(Name) .....(Address)

Sworn to and subscribed before me this ..... day of ....., 193..

.....

(Seal) (Signature and title of officer administering oath)

43 EXHIBIT "B".

"Amended".

Form 940
Treasury Department
Internal Revenue Service

Annual Return Of Excise Tax On Employers Of Eight Or More Individuals

Under Title IX of the Social Security Act

For Calendar Year 1938

File This Return With The Collector Of Internal Revenue For Your District Not Later Than January 31, 1939

Read Instructions Carefully

(Collector's receipt stamp) Taxpayer's Copy	Do not write in this space No. Amount Paid, $ (Cashier's stamp)

Print Name And Address
Greyvan Lines, Inc.
(Name) (See Instruction 1)
1338 S. Michigan Ave.
(Street and number or rural route)
Chicago, Cook, Illinois
(Post office) (County) (State)

Nature of business in detail (Instruction 4) Long Distance Moving of Household Goods.

Check (√) form of organization: ☒ Corporation; ☐ Partnership; ☐ Individual; ☐ Estate or trust.

Date of organization Feb. 23, 1929. Was a return filed for the year 1937? Yes.

1.	Total wages paid or payable for the calendar year. (See instructions on reverse side)	$285,448.99
2.	Less wages paid or payable for (explain on Schedule B if deductions are taken)—	
	(a) Services performed outside the United States	$
	(b) Agricultural labor	
	(c) Domestic service	
	(d) Service of an officer or member of the crew of a vessel on the navigable waters of the United States	
	(e) Family employment	$
3.	Total wages subject to tax (Item 1 minus Item 2)	$285,448.99
4.	Tax (3% of Item 3)	8,563.47
5.	Less: Credit for contributions actually paid into State unemployment funds. (Read carefully instructions on reverse side under Schedule A before entering this item)	4,449.86
6	Balance of tax (Item 4 minus Item 5)	4,113.61
	Previously Paid	755.04
		3,358.57

Affidavit (See Instruction No. 5)

I/we swear (or affirm) that this return, including any accompanying schedules or statements, is a true, correct, and complete return, made in good faith, for the calendar year stated, pursuant to Title IX of the Social Security Act and Regulations issued thereunder and that no portion of the credit claimed in Item 5 above is with respect to a contribution made to any State fund on account of service performed outside the United States as outlined in Instruction 9, or for excepted service as outlined in Instruction 10, nor is any part of such credit with respect to money de-

ducted or to be deducted from the wages of individuals in my/our employ.

(Corp.)
(Seal) (Name) (Title)

(Name) (Title)

Signed or acknowledged before—

(Name) (Address)

(Name) (Address)

Sworn to and subscribed before me this day of , 193.

(Seal) (Signature and title of officer administering oath)

44 EXHIBIT "C".

"Amended".

Form 940
Treasury Department
Internal Revenue Service

Annual Return Of Excise Tax On Employers Of Eight Or More Individuals

Under The Federal Unemployment Tax Act (Formerly Title IX Of The Social Security Act)

For Calendar Year 1939

File This Return With The Collector Of Internal Revenue For Your District Not Later Than January 31, 1940

Read Instructions Carefully

(Collector's receipt stamp)	For use of Collector only No.
Taxpayer's Copy	Amount Paid, $ (Cashier's stamp)

Print Name And Address
Greyvan Lines, Inc.
(Name) (See Instruction 1)
1338 S. Michigan Ave.
(Street and number or rural route)
Chicago, Cook, Illinois
(Post office) (County) (State)

Nature of business in Retail (Instruction 4)

Check (√) form of organization: ☒ Corporation; ☐ Partnership; ☐ Individual; ☐ Estate or trust.

Date of organization Feb. 23, 1929. Were returns filed for all prior years? Yes. If not, attach explanation.

1. Total wages paid during the calendar year. (See instructions on reverse side)		$333,964.13
2. Less wages paid or payable for (explain on Schedule B if deductions are taken)—		
(a) Services performed outside the United States	$	
(b) Agricultural labor		
(c) Domestic service		
(d) Service of an officer or member of the crew of a vessel on the navigable waters of the United States		
(e) Family employment	$	
3. Total wages subject to tax (Item 1 minus Item 2)		$333,964.13
4. Tax (3% of Item 3)		10,018.92
5. Less: Credit for contributions actually paid into State unemployment funds not in excess of 90% of tax shown in Item 4. (Read carefully instructions on reverse side)		5,207.43
6. Balance of tax (Item 4 minus Item 5)	$	4,811.49
Previously paid on 940		897.12
Balance		3,914.37

Affidavit (See Instruction 5)

I, we swear (or affirm) that this return, including any accompanying schedules or statements, is a true, correct, and complete return, made in good faith, for the calendar year stated, pursuant to the Federal Unemployment Tax Act and Regulations issued thereunder and that no part of the credit claimed in Item 5 above is with respect to

money deducted or to be deducted from the wages of individuals in my/our employ.

(Corp.)
(Seal)

.....(Name) .....(Title)

.....(Name) .....(Title)

Signed or acknowledged before—

.....(Name) .....(Address)

.....(Name) .....(Address)

Sworn to and subscribed before me this ..... day of ....., 19....

(Seal)

.....(Signature and title of officer administering oath)

45 EXHIBIT "D".

"Amended".

Read Instructions Carefully

Form 940
Treasury Department
Internal Revenue Service

Annual Return Of Excise Tax On Employers Of Eight Or More Individuals

Under Title IX of the Social Security Act

For Calendar Year 1940

File This Return With The Collector Of Internal Revenue For Your District Not Later Than January 31, 1941

Taxpayer's Copy.

This Copy Must Be Retained By Employer

Print Name And Address
Greyvan Lines, Inc.
(Name) (See Instruction 1)
1338 S. Michigan Ave.
(Street and number or rural route)
Chicago, Cook, Illinois
(Post office) (County) (State)

Nature of business in detail Long Distance Moving of Household Goods.

Check (√) form of organization: ☒ Corporation; ☐ Partnership; ☐ Individual; ☐ Other
(Specify, such as estate, trust, etc.)

Date of organization Feb. 23, 1929. Were returns filed for all prior years? If not, attach explanation.

1.	Total salaries, wages, and other remuneration Paid during 1940 for services of employees	$400,510.33
2.	Less: Total nontaxable remuneration paid. (From Schedule A—Must be explained in statement attached as a part hereof)	$ 16,102.70
3.	Total taxable wages (item 1 minus item 2)	$384,407.63
4.	Tax (3 percent of item 3)	$ 11,532.22
5.	Less: Credit for contributions actually paid into State unemployment funds not in excess of 90 percent of tax shown in item 4. From Schedule B)	$ 5,896.51
6.	Balance of tax (item 4 minus item 5)	$ 5,635.71
	Previously paid on 940	$ 1,203.25
	Balance	$ 4,432.46

Affidavit (See Instructions)

I/we swear (or affirm) that this return, including any accompanying schedules or statements, is a true, correct, and complete return, made in good faith, for the calendar year stated, pursuant to the Federal Unemployment Tax Act and Regulations applicable thereto and that no part of any payment made to a State unemployment fund which is claimed as a credit in Item 5 above was or is to be deducted from the remuneration of employees.

(Signed)

(Title)

Signed or acknowledged before—

(Name) (Address)

(Name) (Address)

Sworn to and subscribed before me this day of , 19

(Signature and title of officer administering oath)

46 "Amended"

Form 940 — Read Instructions Carefully
Treasury Department
Internal Revenue Service

Annual Return Of Excise Tax On Employers Of Eight Or More Individuals

Under the Federal Unemployment Tax Act

For Calendar Year 1941

File This Return With The Collector Of Internal Revenue For Your District Not Later Than January 31, 1942

For use of Collector only
No.

Amount Paid, $

(Cashier's stamp)

Print Name And Address
Greyvan Lines, Inc.
(Name)
1338 S. Michigan Ave.
(Street and number or rural route)
Chicago, Cook, Illinois
(Post office) (County) (State)

Nature of business in detail Common Carrier by Motor Truck.

Check (√) form of organization: ☒ Corporation; ☐ Partnership; ☐ Individual; ☐ Other
(Specify, such as estate, trust, etc.)

Date of organization February 23, 1929. Was a return filed for 1940? Yes. If not, attach explanation.

1.	Total salaries, wages, and other remuneration Paid during 1941 for services of employees	$555,820.69
2.	Less: Total nontaxable remuneration paid. (From Schedule A—Must be explained in schedule A or in separate statement attached as a part hereof)	$ 31,034.26
3.	Total taxable wages (item 1 minus item 2)	$524,786.43
4.	Tax (3 percent of item 3)	$ 15,743.59
5.	Less: Credit for contributions actually paid into State unemployment funds (Schedule B), and any additional credit (Form 940-C), not in excess of 90 percent of tax shown in item 4	$ 9,052.87
6.	Remainder of tax (item 4 minus item 5)	$ 6,690.72
	Previously Paid	$ 1,741.64
	Balance Due	$ 4,949.08
	Delinquent Per @ 5%	$ 247.45
	Int. 1/31/42 to 8/15/42	$ 160.65
	To be assessed 3612 I R C	$ 5,357.18

To be amended under Section 3612 I. R. C.

C. A. McBride,
Dep. Col.

Affidavit (See Instructions)

I swear (or affirm) that this return, including any accompanying schedules or statements, is a true, correct, and complete return, made in good faith, for the calendar year stated, pursuant to the Federal Unemployment Tax Act and Regulations applicable thereto and that no part of any payment made to a State unemployment fund which

is claimed as a credit in Item 5 above was or is to be deducted from the remuneration of employees.

(Signed) .....
(Title) .....

Signed or acknowledged before—

(Name) (Address)

(Name) (Address)

Sworn to and subscribed before me this day of , 19

(Signature and title of officer administering oath)

B-1

Schedule A—Exemptions

This schedule must be prepared in accordance with the instructions entitled How To Prepare Schedule A—Exemptions, to show all nontaxable remuneration paid to employees. The total of this schedule is to be entered in item 2 on face of this form.

Classifications of Exemption (Explain deductions using separate sheet if necessary)	Approximate Number of Employees Involved	Amount Paid
Delaware	1	1,245.01
Illinois	10	23,348.29
New York	1	1,950.00
Ohio	3	2,825.30
Penn.	2	1,665.66
Total	x x	$31,034.26

Schedule B—State Contributions

(See paragraph G, General Instructions)

State in Which Employees Performed Service (1)	Number of Employees Within the State (Average of Quarterly Figures) (2)	Remuneration Reported to Each State Upon Which Contributions Required for 1941 Were Based (3)	State Contributions Paid With Respect to Remuneration in Column (3) (4)
Conn.	4	4,979.48	134.44
Dist. of Col.	6	4,809.96	129.88
Illinois	140	195,100.01	5,267.74
Maryland	5	5,792.77	156.40
Mass.	9	11,256.84	303.94
Michigan	6	6,646.32	199.39
Minnesota	4	5,465.80	27.33 @ .005%
Missouri	9	8,900.92	240.33
New York	30	39,211.82	1,058.72
Ohio	18	25,962.36	700.99
Penn.	14	21,664.41	584.94
Texas	3	4,759.80	128.52
Credit allowed for merit rating Minnesota			120.25
Total	x	x	$9,052.87

Were contributions paid to a State fund under any name other than that shown on the face of this return? no If so, under what name were they paid?

EXHIBIT "F" Sheet One of Two

STATEMENT TO CORRECT INFORMATION

On Schedule A of Form SS-1a Under Federal Insurance Contributions Act or on Forms SS-2 and SS-2a Under Title VIII of the Social Security Act

Identification No.

Greyvah Lines, Inc., 1338 S. Michigan Ave., Chicago, Illinois.

Enter in this space employer's name, address of principal place of business, and identification number.

If the account number, name, or wages of one or more employees were omitted from or erroneously reported on one or more returns, each such error should be corrected on this form. See the explanation on the back of this form.

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
000,00,000			*Dollars Cents*	*Dollars Cents*
	Adams, S. H	Dec. 1937	None	264.00
	Blagrove, Z	Dec. 1937	"	264.00
	Blumenauer, H	Dec. 1937	"	264.00
	Cox, J. W	Dec. 1937	"	264.00
	Chapman, S. E	Dec. 1937	"	264.00
	DeNedde, C. W	Dec. 1937	"	264.00
	Eigert, Carl	Dec. 1937	"	264.00
	Fine, Mark	Dec. 1937	"	264.00
	Foote, D	Dec. 1937	"	264.00
	Godfrey, F. H	Dec. 1937	"	264.00
	Goldsmith, F. H	Dec. 1937	"	264.00
	Gent, C. E	Dec. 1937	"	264.00
	Grays, R., Br	Dec. 1937	"	264.00
	Henry, J	Dec. 1937	"	132.00
	Hagerman, C. R	Dec. 1937	"	264.00
	Hengels, Frank	Dec. 1937	"	264.00
	Hudson, John J	Dec. 1937	"	264.00
	Hunt, A. L	Dec. 1937	"	132.00
	Hayford, K	Dec. 1937	"	264.00
	Hampton, J. P	Dec. 1937	"	264.00
	Hart, S. S	Dec. 1937	"	264.00
	Kindel, Carl	Dec. 1937	"	264.00
	Kirschenlohr, Fred	Dec. 1937	"	264.00
	Krantz, Geo	Dec. 1937	"	264.00
	Lively, Henry W	Dec. 1937	"	264.00
	McCartney, H. E	Dec. 1937	"	264.00
	Maflay, S. E.	Dec. 1937	"	264.00
	Manfra, A	Dec. 1937	"	264.00
	Morgan, Harold	Dec. 1937	"	264.00
	Martin, C. W	Dec. 1937	"	264.00
	Mazza, F	Dec. 1937	"	264.00
	Nagengast, J	Dec. 1937	"	264.00
		Totals	None	8,184.00
		Difference Between Totals		8,184.00

48 Sheet Two of Two

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
Unknown	Narovec, N.	Dec. 1937	None	264.00
"	Nichols, Eugene	"	"	"
"	Nimmona, O. J.	Dec. 1937	"	264.00
"	Nelson, K. W.	Dec. 1937	"	264.00
"	Ogton, C. A.	Dec. 1937	"	264.00
"	Proece, W.	Dec. 1937	"	264.00
"	Ruflein, C.	Dec. 1937	"	264.00
"	Rahn, J. M.	Dec. 1937	"	264.00
"	Robinson, P.	Dec. 1937	"	264.00
"	Rue, C. I.	Dec. 1937	"	264.00
"	Schutier, W. S.	Dec. 1937	"	264.00
"	Smith, L. C.	Dec. 1937	"	264.00
"	Stevens, H. C.	Dec. 1937	"	264.00
"	Strass, W.	Dec. 1937	"	264.00
"	Stromberg, C.	Dec. 1937	"	132.00
"	Taiy, T.	Dec. 1937	"	264.00
"	Taylor, G. W.	Dec. 1927	"	264.00
"	Van Horne, M. V.	Dec. 1937	"	264.00
"	Veeser, C.	Dec. 1937	"	264.00
"	Ward, I. M.	Dec. 1937	"	264.00
"	Whitaker, O. B.	Dec. 1937	"	264.00
"	Watkins, J. G.	Dec. 1937	"	132.00
"	Unknown (Helpers)		"	5,610.00
		Totals	None	10,890.00
		Difference Between Totals,		10,890.00

I certify that the foregoing information is true and correct to the best of my knowledge and belief.

Date ....., 194.. ..... *Collector*

By ..... *Deputy Collector*

(Signature of employer when prepared by him) (District)

Send this form in duplicate to the Collector of Internal Revenue with whom the erroneous return was filed

16—1720

EXHIBIT "G" Sheet 1 of 26

STATEMENT TO CORRECT INFORMATION

On Schedule A of Form SS-1a Under Federal Insurance Contributions Act or on Forms SS-2 and SS-2a Under Title VIII of the Social Security Act

dentification No

Greyvan Lines, Inc., 1338 S. Michigan Ave., Chicago, Illinois.
nter in this space employer's name, address of principal place of business, and identification number.

If the account number, name, or wages of one or more employees were omitted from or erroneously reported on one or more return each such error should be corrected on this form. See the explanation on the back of this form.

mployee's ccount No	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
Unknown	Adams, S. H.	Mar. 1938	None	396.00
	Adams, S. H.	June 1938	"	396.00
	Adams, S. H.	Sept. 1938	"	396.00
	Adams, S. H.	Dec. 1938	"	396.00
	Adams, S. H.	Mar. 1938	"	396.00
	Anderson, H. K.	Sept. 1938	"	
	Ballard, J. L.	Sept. 1938	"	264.00
	Ballard, J. L.	Dec. 1939	"	264.00
	Binkley, B. B.	Mar. 1938	"	
	Binkley, B. B.	June 1938	"	396.00
	Binkley, B. B.	Sept. 1938	"	396.00
	Binkley, B. B.	Dec. 1938	"	396.00
	Binkley, B. B.	Mar. 1939	"	396.00
	Binkley, B. B.	June 1939	"	396.00
	Binkley, B. B.	Sept. 1939	"	396.00
	Beagrave, Z.	Mar. 1938	"	264.00
	Blumenaur, H.	Mar. 1938	"	396.00
	Blumenaur, H.	June 1938	"	396.00
	Blumenaur, H.	Sept. 1938	"	396.00
	Blumenaur, H.	Dec. 1938	"	396.00
	Blumenaur, H.	Mar. 1939	"	396.00
	Blumenaur, H.	June 1939	"	396.00
	Blumenaur, H.	Sept. 1939	"	396.00
	Blumenaur, H.	Dec. 1939	"	396.00
	Blumenaur, H.	Mar. 1940	"	396.00
	Blumenaur, H.	June 1940	"	396.00
	Blumenaur, H.	Sept. 1940	"	396.00
	Blumenaur, H.	Dec. 1940	"	396.00
	Beckwith, J. T.	Mar. 1938	"	
	Breniza, J. H.	Sept. 1938	"	264.00
	Breniza, J. H.	Dec. 1938	"	396.00
		Totals	None	10,560.00
		Difference Between Totals		10,560.00

50 Sheet II of

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
Unknown	Brensier, H	Mar. 1939	None	396.00
"	Brensier, H	June 1939	"	396.00
"	Brensier, H	Sept. 1939	"	396.00
"	Brensier, H	Dec. 1939	"	396.00
"	Brensier, H	Mar. 1939	"	396.00
"	Brensier, H	June 1940	"	396.00
"	Brensier, H	Sept. 1940	"	396.00
"	Brensier, H	Dec. 1940	"	396.00
"	Brammer, W. H	Mar. 1939	"	132.00
"	Brammer, W. H	June 1939	"	396.00
"	Brammer, W. H	Sept. 1939	"	264.00
"	Bacbr, A. C	June 1939	"	264.00
"	Bacbr, A. C	Sept. 1939	"	396.00
"	Bacbr, A. C	Dec. 1939	"	396.00
"	Bacbr, A. C	Mar. 1940	"	264.00
"	Bucholzer, J	Dec. 1939	"	264.00
"	Beatty	Mar. 1939	"	132.00
"	Beatty	June 1939	"	396.00
"	Beatty	Sept. 1939	"	132.00
"	Belch, J. F	[illegible]t. 1940	"	264.00
"	Belch, J. F	1940	"	396.00
"	Birdsell, F. A	[illegible]940	"	396.00
"	Birdsell, F. A	Sep[illegible]9[illegible]0	"	396.00
"	Birdsell, F. A	Dec. 1940	"	396.00
"	Burnett, J	Mar. 1940	"	264.00
"	Burnett, J	June 1940	"	396.00
"	Burnett, J	Sept. 1940	"	396.00
"	Burnett, J	Dec. 1940	"	396.00
"	Bucholser, J	Mar. 1940	"	396.00
"	Bucholser, J	June 1940	"	396.00
"	Bucholser, J	Sept. 1940	"	396.00
"	Bucholser, J	Dec. 1940	"	396.00
		Totals,	None	11,088.00
		Difference Between Totals,		11,088.00

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Unknown	Bolt, F. E	Sept. 1940	None	132.00
"	Bolt, F. E	Dec. 1940	"	264.00
"	Berush, J	Dec. 1940	"	396.00
"	Crawford, L. H	June 1938	"	396.00
"	Crawford, L. H	Sept. 1938	"	396.00
"	Crawford, L. H	Dec. 1938	"	396.00
"	Crawford, L. H	Mar. 1939	"	396.00
"	Crawford, L. H	June 1939	"	396.00
"	Crawford, L. H	Sept. 1939	"	396.00
"	Crawford, L. H	Dec. 1939	"	396.00
"	Crawford, L. H	Mar. 1940	"	132.00
"	Chapman, S. E	Mar. 1938	"	396.00
"	Chapman, S. E	June 1938	"	396.00
"	Chapman, S. E	Sept. 1938	"	396.00

ployee's ount No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
known	Chapman, S. E.	Dec. 1938	None	396.00
"	Chapman, S. E.	Mar. 1939	"	396.00
"	Chapman, S. E.	June 1939	"	396.00
"	Chapman, S. E.	Sept. 1939	"	132.00
"	Cox, J. W.	Mar. 1938	"	396.00
"	Cox, J. W.	June 1938	"	396.00
"	Cox, J. W.	Sept. 1938	"	396.00
"	Cox, J. W.	Dec. 1938	"	132.00
"	Croscroft, C. A	Mar. 1938	"	264.00
"	Croscroft, C. A	June 1938	"	396.00
"	Croscroft, C. A	Sept. 1938	"	396.00
"	Croscroft, C. A	Dec. 1938	"	396.00
"	Croscroft, C. A	Mar. 1939	"	396.00
"	Croscroft, C. A	June 1939	"	396.00
"	Croscroft, C. A	Sept. 1939	"	396.00
"	Croscroft, C. A	Dec. 1939	"	396.00
"	Croscroft, C. A	Mar. 1940	"	396.00
		Totals,	None	10,956.00
		Difference Between Totals,		10,956.00
				Sheet IV of 26
known	Crowcroft, C. A.	June 1940	None	396.00
"	Crowcroft, C. A	Sept. 1940	"	396.00
"	Crowcroft, C. A.	Dec. 1940	"	396.00
"	Cunningham, J. B.	Sept. 1938	"	264.00
"	Cunningham, J. B.	Dec. 1938	"	396.00
"	Cunningham, J. B.	Mar. 1939	"	396.00
"	Cunningham, J. B.	June 1939	"	396.00
"	Call, F.	Mar. 1939	"	396.00
"	Call, F.	June 1939	"	264.00
"	Clark, H.	June 1939	"	396.00
"	Connell, L. T.	June 1939	"	396.00
"	Connell, L. T.	Sept. 1939	"	396.00
"	Connell, L. T.	Dec. 1939	"	396.00
"	Connell, L. T.	Mar. 1940	"	396.00
"	Connell, L. T.	June 1940	"	396.00
"	Connell, L. T.	Sept. 1940	"	396.00
"	Connell, L. T.	Dec. 1940	"	396.00
"	Cordee, H.	June 1940	"	396.00
"	Cordee, H.	Sept. 1940	"	396.00
"	Dearbrayn.	Mar. 1938	"	264.00
"	DeNee, C. W.	Mar. 1938	"	396.00
"	DeNee, C. W.	June 1938	"	396.00
"	DeNee, C. W.	Sept. 1938	"	396.00
"	DeNee, C. W.	Dec. 1938	"	396.00
"	DeNee, C. W.	Mar. 1939	"	396.00
"	DeNee, C. W.	June 1939	"	396.00
"	DeNee, C. W.	Sept. 1939	"	396.00
"	DeNee, C. W.	Dec. 1939	"	396.00
"	DeNee, C. W.	Mar. 1940	"	396.00
"	DeNee, C. W.	June 1940	"	396.00
		Totals,	None	11,880.00
		Difference Between Totals,		11,880.00

53 Sheet V

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return		Corrected Amount of Wages
			Dollars	Cents	Dollars
Unknown	DeNee, C. W	Sept. 1940	None		
"	DeNee, C. W	Dec. 1940	"		
"	Durr, B	June 1939	"		
"	Durr, B	Sept. 1939	"		
"	Durr, B	Dec. 1939	"		
"	Durr, B	Mar. 1940	"		
"	Durr, B	June 1940	"		
"	Durr, B	Sept. 1940	"		
"	Durr, B	Dec. 1940	"		
"	Denis, S. S	June 1939	"		
"	Denis, S. S	Sept. 1939	"		
"	Denis, S. S	Dec. 1939	"		
"	Denis, S. S.	Mar. 1940	"		
"	Denis, S. S	June 1940	"		
"	Denis, S. S	Sept. 1940	"		
"	Denis, S. S	Dec. 1940	"		
"	Deen, C. L.	June 1940	"		
"	Deen, C. L.	Sept. 1940	"		
"	Deen, C. L.	Dec. 1940	"		
"	Eigert, Carl	Mar. 1938	"		
"	Eigert, Carl	June 1938	"		
"	Eigert, Carl	Sept. 1938	"		
"	Eigert, Carl	Dec. 1938	"		
"	Eigert, Carl	Mar. 1939	"		
"	Eigert, Carl	June 1939	"		
"	Eigert, Carl	Sept. 1939	"		
"	Eigert, Carl	Dec. 1939	"		
"	Eigert, Carl	Mar. 1940	"		
"	Eigert, Carl	June 1940	"		
"	Eigert, Carl	Sept. 1940	"		
"	Eigert, Carl	Dec. 1940	"		
		Totals	None		
		Difference Between Totals			

54 Sheet VI

Unknown	Edelstein, B	June 1938	None	
"	Edelstein, B	Sept. 1938	"	
"	Edelstein, B	Dec. 1938	"	
"	Elliston, A. E.	Sept. 1940	"	
"	Elliston, A. E.	Dec. 1940	"	
"	Fine, Merle	Mar. 1938	"	
"	Fine, Merle	June 1938	"	
"	Fine, Merle	Sept. 1938	"	
"	Fine, Merle	Dec. 1938	"	
"	Fine, Merle	Mar. 1939	"	
"	Fine, Merle	June 1939	"	
"	Fine, Merle	Dec. 1939	"	
"	Foots, Don	Mar. 1938	"	
"	Foots, Don	June 1938	"	
"	Foots, Don	Sept. 1938	"	
"	Foots, Don	Dec. 1938	"	

loyee's unt No	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
known	Foots, Don	Mar. 1938	None	396.00
	Foots, Don	June 1938	"	396.00
	Foots, Don	Sept. 1938	"	396.00
	Foots, Don	Dec. 1938	"	396.00
	Foots, Don	Mar. 1940	"	396.00
	Foots, Don	June 1940	"	396.00
	Foots, Don	Sept. 1940	"	396.00
	Foots, Don	Dec. 1940	"	396.00
	Fretz, J. S	Sept. 1938	"	132.00
	Fretz, J. S	Dec. 1938	"	132.00
	Ferguson, J. C	June 1939	"	396.00
	Ferguson, J. C	Sept. 1939	"	396.00
	Ferguson, J. C	Dec. 1939	"	396.00
	Ferguson, J. C	Mar. 1940	"	396.00
	Ferguson, J. C	June 1940	"	396.00
		Totals	None	10,956.00
		Difference Between Totals		10,956.00

Sheet VII of 26

known	Ferguson, J. C	Sept. 1940	None	396.00
	Ferguson, J. C	Dec. 1940	"	396.00
	Finkbeiner, W. H	Sept. 1940	"	132.00
	Finkbeiner, W. H	Dec. 1940	"	396.00
	Foote, Wendt	June 1940	"	396.00
	Foote, Wendt	Sept. 1940	"	396.00
	Foote, Wendt	Dec. 1940	"	396.00
	Genza, W	June 1938	"	264.00
	Genza, W	Sept. 1938	"	396.00
	Genza, W	Dec. 1938	"	396.00
	Genza, W	Mar. 1939	"	396.00
	Genza, W	Mar. 1940	"	
	Gant, Clarence	Mar. 1938	"	396.00
	Gant, Clarence	June 1938	"	396.00
	Gant, Clarence	Sept. 1938	"	396.00
	Gant, Clarence	Dec. 1938	"	132.00
	Godfrey, F. H	Mar. 1938	"	396.00
	Godfrey, F. H	June 1938	"	396.00
	Godfrey, F. H	Sept. 1938	"	396.00
	Godfrey, F. H	Dec. 1938	"	396.00
	Godfrey, F. H	Mar. 1939	"	
	Goldsmith	Mar. 1938	"	396.00
	Goldsmith	June 1938	"	396.00
	Goldsmith	Sept. 1938	"	396.00
	Goldsmith	Dec. 1938	"	396.00
	Goldsmith	Mar. 1939	"	396.00
	Goldsmith	June 1939	"	396.00
	Goldsmith	Sept. 1939	"	396.00
	Goldsmith	Dec. 1939	"	396.00
	Goldsmith	Mar. 1940	"	396.00
	Goldsmith	June 1940	"	396.00
		Totals	None	10,824.00
		Difference Between Totals		10,824.00

56 Sheet VIII

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars*
Unknown	Goldsmith	Sept. 1940	None	396.00
"	Goldsmith	Dec. 1940	"	396.00
"	Gray's, Robert	Mar. 1938	"	396.00
"	Grays, Robert	June 1938	"	396.00
"	Grays, Robert	Sept. 1938	"	396.00
"	Grays, Robert	Dec. 1938	"	396.00
"	Grays, Robert	Mar. 1939	"	396.00
"	Grays, Robert	June 1939	"	396.00
"	Grays, Robert	Sept. 1939	"	396.00
"	Grays, Robert	Dec. 1939	"	396.00
"	Grays, Robert	Mar. 1940	"	396.00
"	Grays, Robert	June 1940	"	396.00
"	Grays, Robert	Sept. 1940	"	396.00
"	Grays, Robert	Dec. 1940	"	396.00
"	Gustafson, C. T.	June 1939	"	132.00
"	Goodman, P. H.	Sept. 1939	"	264.00
"	Goodman, P. H.	Dec. 1939	"	264.00
"	Garrison, L.	Mar. 1939	"	132.00
"	Garrison, L.	June 1939	"	396.00
"	Garrison, L.	Sept. 1939	"	396.00
"	Garrison, L.	Dec. 1939	"	396.00
"	Hobbard, L.	Mar. 1939	"	132.00
"	Hobbart, L.	June 1939	"	396.00
"	Hobbart, L.	Sept. 1939	"	396.00
"	Hobbart, L.	Dec. 1939	"	396.00
"	Hobbart, L.	Mar. 1940	"	396.00
"	Hobbart, L.	June 1940	"	264.00
"	Hobbart, L.	Sept. 1940	"	396.00
"	Hobbart, L.	Dec. 1940	"	132.00
"	Garrison, L.	Mar. 1940	"	396.00
"	Garrison, L.	June 1940	"	396.00
		Totals,	None	10,824.00
		Difference Between Totals,		10,824.00

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Unknown	Garrison, L.	Sept. 1940	Unknown	396.00
"	Garrison, L.	Dec. 1940	"	132.00
"	Gruber, W. J.	June 1939	"	396.00
"	Gruber, W. J.	Sept. 1939	"	396.00
"	Gruber, W. J.	Dec. 1939	"	396.00
"	Gruber, W. J.	Mar. 1940	"	396.00
"	Garrison, Joe	Dec. 1940	"	264.00
"	Grainer, H.	June 1940	"	396.00
"	Grainer, H.	Sept. 1940	"	396.00
"	Grainer, H.	Dec. 1940	"	396.00
"	Graham, J.	Mar. 1940	"	264.00
"	Graham, J.	June 1940	"	396.00
"	Graham, J.	Sept. 1940	"	396.00
"	Graham, J.	Dec. 1940	"	396.00
"	Goody, K. A.	Dec. 1940	"	264.00
"	Hampton, J. F.	Mar. 1939	"	396.00

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
Unknown			*Dollars Cents*	*Dollars Cents*
"	Hampton, J. F.	June 1939	None	396.00
"	Hampton, J. F.	Sept. 1939	"	132.00
"	Hart, S. S.	Mar. 1939	"	396.00
"	Hart, S. S.	June 1939	"	396.00
"	Hart, S. S.	Sept. 1939	"	396.00
"	Hart, S. S.	Dec. 1939	"	396.00
"	Hart, S. S.	Mar. 1939	"	396.00
"	Hart, S. S.	June 1939	"	396.00
"	Hart, S. S.	Sept. 1939	"	396.00
"	Hart, S. S.	Dec. 1939	"	396.00
"	Hart, S. S.	Mar. 1940	"	396.00
"	Hart, S. S.	June 1940	"	396.00
"	Hart, S. S.	Sept. 1940	"	396.00
"	Hart, S. S.	Dec. 1940	"	396.00
"	Hayford, Riley	Mar. 1938	"	396.00
		Totals,	None	11,352.00
		Difference Between Totals,		11,352.00
				Sheet X of 26
Unknown	Hayford, Riley	June 1938	None	396.00
"	Hayford, Riley	Sept. 1938	"	396.00
"	Hayford, Riley	Dec. 1938	"	396.00
"	Hayford, Riley	Mar. 1939	"	396.00
"	Hayford, Riley	June 1939	"	396.00
"	Hayford, Riley	Sept. 1939	"	132.00
"	Kengale, Frank	Mar. 1938	"	396.00
"	Kengale, Frank	June 1938	"	396.00
"	Kengale, Frank	Sept. 1938	"	396.00
"	Kengale, Frank	Dec. 1938	"	396.00
"	Kengale, Frank	Mar. 1939	"	396.00
"	Hillier, V. L.	Mar. 1938	"	396.00
"	Hillier, V. L.	June 1938	"	396.00
"	Hillier, V. L.	Sept. 1938	"	396.00
"	Hillier, V. L.	Dec. 1938	"	396.00
"	Hillier, V. L.	Mar. 1939	"	396.00
"	Hudson, John	June 1938	"	396.00
"	Hudson, John	Sept. 1938	"	264.00
"	Hudson, John	Dec. 1938	"	
"	Hallberg, C. H.	Mar. 1939	"	132.00
"	Hallberg, C. H.	June 1939	"	396.00
"	Hallberg, C. H.	Sept. 1939	"	396.00
"	Hallberg, C. H.	Dec. 1939	"	396.00
"	Hallberg, C. H.	Mar. 1940	"	396.00
"	Hallberg, C. H.	June 1940	"	396.00
"	Hallberg, C. H.	Sept. 1940	"	396.00
"	Hallberg, C. H.	Dec. 1940	"	396.00
"	Hulett, O. C.	June 1939	"	396.00
"	Hulett, O. C.	Sept. 1939	"	396.00
"	Hamilton, O.	June 1939	"	132.00
"	Hamilton, O.	Sept. 1939	"	264.00
		Totals,	None	10,824.00
		Difference Between Totals,		10,824.00

59 Sheet XI of 2

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
Unknown	Harnburdge, L. A.	Mar. 1940	None	132.00
"	Harnburdge, L. A.	June 1940	"	396.00
"	Harnburdge, L. A.	Sept. 1940	"	396.00
"	Harnburdge, L. A.	Dec. 1940	"	396.00
"	Hall, B.	June 1940	"	396.00
"	Hall, B.	Sept. 1940	"	396.00
"	Hall, B.	Dec. 1940	"	.....
"	Graham, M. L.	Dec. 1940	"	132.00
"	Jackson, O.	June 1939	"	396.00
"	Jackson, O.	Sept. 1939	"	182.00
"	Johnson, F. W.	June 1940	"	264.00
"	Johnson, F. W.	Dec. 1940	"	396.00
"	Ives, D.	June 1940	"	396.00
"	Ives, D.	Sept. 1940	"	396.00
"	Ives, D.	Dec. 1940	"	396.00
"	Kaub, E.	Mar. 1938	"	132.00
"	Kaub, E.	June 1938	"	396.00
"	Kaub, E.	Sept. 1938	"	396.00
"	Kaub, E.	Dec. 1938	"	396.00
"	Kaub, E.	Mar. 1939	"	396.00
"	Kaub, E.	June 1939	"	396.00
"	Kaub, E.	Sept. 1939	"	396.00
"	Kaub, E.	Dec. 1939	"	396.00
"	Kaub, E.	Mar. 1940	"	396.00
"	Kaub, E.	June 1940	"	396.00
"	Kaub, E.	Sept. 1940	"	396.00
"	Kaub, E.	Dec. 1940	"	396.00
"	Kohn, V.	Mar. 1938	"	.....
"	Kohn, V.	June 1938	"	396.00
"	Kohn, V.	Sept. 1938	"	396.00
"	Kohn, V.	Dec. 1938	"	132.00
		Totals,	None	10,284.00
		Difference Between Totals,		10,284.00

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Unknown	Kindel, Carl	Mar. 1938	Unknown	396.00
"	Kindel, Carl	June 1938	"	396.00
"	Kindel, Carl	Sept. 1938	"	264.00
"	Kirschenlohr, V.	Mar. 1938	"	396.00
"	Kirschenlohr, V.	June 1938	"	396.00
"	Kirschenlohr, V.	Sept. 1938	"	396.00
"	Kirschenlohr, V.	Dec. 1938	"	396.00
"	Kirschenlohr, V.	Mar. 1939	"	396.00
"	Kirschenlohr, V.	June 1939	"	264.00
"	Kranz, G.	Mar. 1938	"	396.00
"	Kraas, G. J.	June 1938	"	264.00
"	Kraas, G. J.	Sept. 1938	"	396.00
"	Kraas, G. J.	Dec. 1938	"	396.00
"	Kraas, G. J.	Mar. 1939	"	396.00
"	Kraas, G. J.	June 1939	"	396.00
"	Kraas, G. J.	Sept. 1939	"	396.00

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
Unknown	Kraas, G. J.	Dec. 1939	None	396.00
"	Kraas, G. J.	Mar. 1940	"	132.00
"	Kanyon, R.	June 1939	"	264.00
"	Kanyon, R.	Sept. 1939	"	396.00
"	Kanyon, R.	Dec. 1939	"	396.00
"	Kanyon, R.	Mar. 1940	"	132.00
"	Karbo, C.	June 1939	"	396.00
"	Karbo, C.	Sept. 1939	"	132.00
"	Kennits P. J.	June 1940	"	396.00
"	Kennits, P. J.	Sept. 1940	"	396.00
"	Kennits, P. J.	Dec. 1940	"	132.00
"	Hoover, J. W.	Mar. 1940	"	264.00
"	Kuetcher, J. G.	June 1940	"	264.00
"	Kuetcher, J. G.	Sept. 1940	"	264.00
"	Lively, H. W.	Mar. 1938	"	264.00
		Totals,	None	10,164.00
		Difference Between Totals.		10,164.00

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Unknown	Lanny, C.	June 1939	None	396.00
"	Lanny, C.	Sept. 1939	"	396.00
"	Lanny, C.	Dec. 1939	"	396.00
"	Lanny, C.	Mar. 1940	"	396.00
"	Lanny, C.	June 1940	"	264.00
"	Lengh	Mar. 1939	"	132.00
"	Lengh	June 1939	"	396.00
"	Lengh	Sept. 1939	"	396.00
"	Lengh	Dec. 1939	"	396.00
"	Lulklmann	Mar. 1939	"	
"	Lulklmann	June 1939	"	
"	Lichtenburg, J.	June 1939	"	396.00
"	Lichtenburg, J.	Sept. 1939	"	396.00
"	Lichtenburg, J.	Dec. 1939	"	396.00
"	Lichtenburg, J.	Mar. 1940	"	396.00
"	Lichtenburg, J.	June 1940	"	396.00
"	Lichtenburg, J.	Sept. 1940	"	396.00
"	Lichtenburg, J.	Dec. 1940	"	
"	Littlefield, E. J.	Dec. 1939	"	264.00
"	Littlefield, E. J.	Mar. 1940	"	396.00
"	Littlefield, E. J.	June 1940	"	
"	Littlefield, E. J.	Sept. 1940	"	
"	Littlefield, E. J.	Dec. 1940	"	
"	Lincoln, A. J.	Mar. 1940	"	396.00
"	Lincoln, A. J.	June 1940	"	396.00
"	Lincoln, A. J.	Sept. 1940	"	396.00
"	Lincoln, A. J.	Dec. 1940	"	396.00
"	Lange, U. M.	Mar. 1940	"	396.00
"	Lange, U. M.	June 1940	"	396.00
"	Lange, U. M.	Sept. 1940	"	396.00
"	Lange, U. M.	Dec. 1940	"	396.00
		Totals,	None	9,768.00
		Difference Between Totals.		9,768.00

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Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars*
Unknown	Long, A.	Mar. 1940	None	264.00
"	Lang, N.	Sept. 1940	"	264.00
"	Lang, N.	Dec. 1940	"	396.00
"	McCartney, N. N.	Mar. 1938	"	396.00
"	McCartney, N. N.	June 1938	"	264.00
"	McKay, S. F.	Mar. 1938	"	396.00
"	McKay, S. F.	June 1938	"	396.00
"	McKay, S. F.	Sept. 1938	"	396.00
"	McKay, S. F.	Dec. 1938	"	396.00
"	McKay, S. F.	Mar. 1939	"	[illegible]
"	McKay, S. F.	June 1939	"	396.00
"	McKay, S. F.	Sept. 1939	"	396.00
"	McKay, S. F.	Dec. 1939	"	396.00
"	McKay, S. F.	Mar. 1940	"	396.00
"	McKay, S. F.	June 1940	"	396.00
"	McKay, S. F.	Sept. 1940	"	396.00
"	McKay, S. F.	Dec. 1940	"	396.00
"	McAnanch, R. C.	Mar. 1939	"	132.00
"	McAnanch, R. C.	June 1939	"	396.00
"	McAnanch, R. C.	Sept. 1939	"	132.00
"	McGovern, L.	June 1939	"	264.00
"	McGovern, L.	Sept. 1939	"	396.00
"	McGovern, L.	Dec. 1939	"	396.00
"	McGovern, J.	Sept. 1940	"	396.00
"	McGovern, J.	Dec. 1940	"	396.00
"	Mains, R.	June 1938	"	264.00
"	Mains, R.	Mar. 1939	"	396.00
"	Mains, R.	June 1939	"	264.00
"	Manfra, A.	Mar. 1938	"	396.00
"	Manfra, A.	June 1938	"	396.00
"	Manfra, A.	Sept. 1938	"	396.00
		Totals	None	10,560.00
		Difference Between Totals		10,560.00

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Unknown	Manfra, A.	Dec. 1938	None	396.00
"	Manfra, A.	Mar. 1939	"	396.00
"	Manfra, A.	June 1939	"	396.00
"	Manfra, A.	Sept. 1939	"	396.00
"	Manfra, A.	Dec. 1939	"	396.00
"	Manfra, A.	Mar. 1940	"	396.00
"	Manfra, A.	June 1940	"	396.00
"	Manfra, A.	Sept. 1940	"	264.00
"	Manfra, A.	Dec. 1940	"	
"	Martin, C. M.	Mar. 1938	"	396.00
"	Martin, C. M.	June 1938	"	396.00
"	Martin, C. M.	Sept. 1938	"	396.00
"	Martin, C. M.	Dec. 1938	"	396.00
"	Martin, C. M.	Mar. 1939	"	396.00
"	Martin, C. M.	June 1939	"	396.00
"	Martin, C. M.	Sept. 1939	"	396.00

loyee's unt No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
known	Martin, C. M.	Dec. 1939	None	396.00
"	Martin, C. M.	Mar. 1940	"	396.00
"	Martin, C. M.	June 1940	"	264.00
"	Mazza, F.	Mar. 1938	"	396.00
"	Mazza, F.	June 1938	"	396.00
"	Mazza, F.	Sept. 1938	"	396.00
"	Mazza, F.	Dec. 1938	"	132.00
"	Morgan, H.	Mar. 1938	"	396.00
"	Morgan, H.	June 1938	"	396.00
"	Morgan, H.	Sept. 1938	"	396.00
"	Morgan, H.	Dec. 1938	"	396.00
"	Morgan, H.	Mar. 1939	"	396.00
"	Morgan, H.	June 1938	"	396.00
"	Morgan, H.	Sept. 1938	"	396.00
"	Morgan, H.	Dec. 1938	"	396.00
"	Morgan, H.	Mar. 1940	"	396.00
		Totals,	None	11,748.00
		Difference Between Totals,		11,748.00
				Sheet XVI of 26
known	Morgan, H.	June 1940	None	396.00
"	Morgan, H.	Sept. 1940	"	396.00
"	Morgan, H.	Dec. 1940	"	396.00
"	Martin, T. J.	Sept. 1938	"	264.00
"	Martin, T. J.	Dec. 1938	"	132.00
"	Manhardt, C.	Sept. 1939	"	132.00
"	Manhardt, C.	Dec. 1938	"	264.00
"	Martin, H. T.	Mar. 1939	"	396.00
"	Martin, H. T.	June 1939	"	396.00
"	Martin, H. T.	Sept. 1939	"	396.00
"	Martin, H. T.	Dec. 1939	"	396.00
"	Martin, H. T.	Mar. 1940	"	396.00
"	Martin, H. T.	June 1940	"	396.00
"	Martin, H. T.	Sept. 1940	"	396.00
"	Martin, H. T.	Dec. 1940	"	396.00
"	Murphy, J. T.	Mar. 1939	"	264.00
"	Murphy, J. T.	June 1939	"	396.00
"	Murphy, J. T.	Sept. 1939	"	396.00
"	Murphy, J. T.	Dec. 1939	"	396.00
"	Murphy, J. T.	Mar. 1940	"	396.00
"	Murphy, J. T.	June 1940	"	396.00
"	Murphy, J. T.	Sept. 1940	"	396.00
"	Murphy, J. T.	Dec. 1940	"	396.00
"	Metcalf, A.	June 1939	"	132.00
"	Metcalf, A.	Sept. 1939	"	396.00
"	Metcalf, A.	Dec. 1939	"	396.00
"	Metcalf, A.	Mar. 1940	"	264.00
"	Metcalf, A.	June 1940	"	
"	Meehan, H. W.	Sept. 1939	"	396.00
"	Meehan, H. W.	Dec. 1939	"	396.00
"	Meehan, H. W.	Mar. 1940	"	396.00
		Totals,	None	10,560.00
		Difference Between Totals,		

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Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return		Cor Amo of W
			Dollars	*Cents*	*Dollars*
Unknown	Meehan, H. W.	June 1940	None		3
"	Meehan, H. W.	Sept. 1940	"		3
"	Meehan, H. W.	Dec. 1940	"		2
"	Miller, J. I.	Mar. 1939	"		
"	Miller, J. I.	June 1939	"		
"	Miller, J. I.	Sept. 1939	"		
"	Miller, J. I.	Dec. 1939	"		1
"	Miller, J. I.	Mar. 1940	"		3
"	Miller, J. I.	June. 1940	"		3
"	Miller, J. I.	Sept. 1940	"		3
"	Miller, J. I.	Dec. 1940	"		3
"	Eagengast, J.	Mar. 1938	"		3
"	Eagengast, J.	June 1938	"		3
"	Eagengast, J.	Sept. 1938	"		3
"	Eagengast, J.	Dec. 1938	"		3
"	Eagengast, J.	Mar. 1939	"		3
"	Eagengast, J.	June 1939	"		3
"	Eagengast, J.	Sept. 1939	"		3
"	Eagengast, J.	Dec. 1939	"		3
"	Eagengast, J.	Mar. 1940	"		3
"	Eagengast, J.	June 1940	"		3
"	Eagengast, J.	Sept. 1940	"		3
"	Eagengast, J.	Dec. 1940	"		3
"	Harcros, H.	Mar. 1938	"		3
"	Harcros, H.	June 1938	"		1
"	Harcros, H.	Mar. 1940	"		3
"	Harcros, H.	June 1940	"		3
"	Harcros, H.	Sept. 1940	"		3
"	Harcros, H.	Dec. 1940	"		3
"	Hinmans, A. J.	Mar. 1939	"		3
"	Hinmans, A. J.	June 1939	"		3
		Totals,			10,42
		Difference Between Totals,			10,42

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Unknown	Hinmans, A. J.	Sept. 1939	None		3
"	Hinmans, A. J.	Dec. 1939	"		3
"	Hinmans, A. J.	Mar. 1940	"		3
"	Hinmans, A. J.	June 1940	"		3
"	Hinmans, A. J.	Sept. 1940	"		1
"	Hinmans, A. J.	Dec. 1940	"		
"	Nelson, R. H.	Mar. 1938	"		3
"	Nelson, R. H.	Mar. 1938	"		2
"	Hinmans, A. J.	June 1938	"		3
"	Hinmans, A. J.	June 1938	"		3
"	Hinmans, A. J.	Sept. 1939	"		3
"	Hinmans, A. J.	Dec. 1938	"		3
"	Noble, J. A.	Sept. 1938	"		3
"	Noble, J. A.	Dec. 1938	"		1
"	Nystrom, W. E.	Sept. 1938	"		3

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
Unknown	Nystrom, W. E	Dec. 1938	None	
"	Noland, C	June 1940	"	396.00
"	Noland, C	Sept. 1940	"	396.00
"	Nelson, H	Mar. 1940	"	264.00
"	Orton, C. A	Mar. 1938	"	264.00
"	Osborn, L	June 1939	"	396.00
"	Osborn, L	Sept. 1939	"	396.00
"	Osborn, L	Dec. 1939	"	396.00
"	Osborn, L	Mar. 1940	"	396.00
"	Osborn, L	June 1940	"	396.00
"	Osborn, L	Sept. 1940	"	396.00
"	Osborn, L	Dec. 1940	"	396.00
"	Oliver, L. A	Dec. 1940	"	132.00
"	Oakley, J. H	Dec. 1940	"	132.00
"	Pease, W	Mar. 1938	"	396.00
"	Pease, W	June 1938	"	396.00
		Totals	None	9,768.00
		Difference Between Totals		9,768.00
				Sheet XIX of 26.
Unknown	Prosce, W	Sept. 1938	None	396.00
"	Prosce, W	Dec. 1938	"	396.00
"	Prosce, W	Mar. 1938	"	396.00
"	Prosce, W	June 1938	"	396.00
"	Prosce, W	Sept. 1938	"	396.00
"	Prosce, W	Dec. 1939	"	396.00
"	Prosce, W	Mar. 1940	"	396.00
"	Prosce, W	June 1940	"	396.00
"	Prosce, W	Sept. 1940	"	396.00
"	Parsley	Dec. 1940	"	396.00
"	Parslay, W. R	Mar. 1938	"	
"	Parslay, W. R	June 1938	"	
"	Parslay, W. R	Sept. 1938	"	264.00
"	Parslay, W. R	Dec. 1938	"	396.00
"	Parslay, W. R	Mar. 1939	"	396.00
"	Parslay, W. R	June 1939	"	396.00
"	Parslay, W. R	Sept. 1939	"	396.00
"	Parslay, W. R	Dec. 1939	"	396.00
"	Parslay, W. R	Mar. 1940	"	396.00
"	Parslay, W. R	June 1940	"	396.00
"	Parslay, W. R	Sept. 1940	"	396.00
"	Parslay, W. R	Dec. 1940	"	396.00
"	Pedersen, K	June 1939	"	264.00
"	Pedersen, K	Sept. 1939	"	396.00
"	Pedersen, K	Dec. 1939	"	396.00
"	Pedersen, K	Mar. 1940	"	132.00
"	Plowman, L	June 1939	"	396.00
"	Plowman, L	Sept. 1939	"	396.00
"	Plowman, L	Dec. 1939	"	66.00
"	Plowman, L	Mar. 1940	"	
		Totals	None	9,834.00
		Difference Between Totals		9,834.00

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Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
Unknown	Parks, W. C	Mar. 1939	None	396.00
"	Parks, W. C	June 1939	"	396.00
"	Parks, W. C	Sept. 1939	"	396.00
"	Parks, W. C	Dec. 1939	"	396.00
"	Parks, W. C	Mar. 1940	"	396.00
"	Parks, W. C	June 1940	"	396.00
"	Parks, W. C	Sept. 1940	"	396.00
"	Parks, W. C	Dec. 1940	"	396.00
"	Pethe, W	Sept. 1939	"	132.00
"	Pethe, W	Dec. 1939	"	396.00
"	Pethe, W	Mar. 1940	"	396.00
"	Pethe, W	June 1940	"	396.00
"	Pethe, W	Sept. 1940	"	396.00
"	Pethe, W	Dec. 1940	"	396.00
"	Rahn, J. H	Mar. 1938	"	396.00
"	Rahn, J. H	June 1938	"	396.00
"	Rahn, J. H	Sept. 1938	"	396.00
"	Rahn, J. H	Dec. 1938	"	396.00
"	Rahn, J. H	Mar. 1939	"	396.00
"	Rahn, J. H	June 1939	"	132.00
"	Riflein, C	Mar. 1938	"	396.00
"	Riflein, C	June 1938	"	396.00
"	Riflein, C	Sept. 1938	"	396.00
"	Riflein, C	Dec. 1938	"	396.00
"	Riflein, C	Mar. 1939	"	132.00
"	Riflein, C	June 1939	"	396.00
"	Riflein, C	Sept. 1939	"	396.00
"	Riflein, C	Dec. 1939	"	396.00
"	Riflein, C	Mar. 1940	"	396.00
"	Riflein, C	June 1940	"	396.00
"	Riflein, C	Sept. 1940	"	396.00
"	Riflein, C	Dec. 1940	"	396.00
		Totals,	None	11,484.00
		Difference Between Totals,		11,484.00

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Unknown	Robinson, W. H	Mar. 1938	None	396.00
"	Robinson, W. H	June 1938	"	264.00
"	Rue, C. L	Mar. 1938	"	396.00
"	Rue, C. L	June 1938	"	396.00
"	Rue, C. L	Sept. 1938	"	396.00
"	Rue, C. L	Dec. 1938	"	396.00
"	Rue, C. L	Mar. 1939	"	396.00
"	Rue, C. L	June 1939	"	396.00
"	Roodoll, H	Dec. 1939	"	132.00
"	Roodoll, H	June 1939	"	396.00
"	Roodoll, H	Sept. 1939	"	396.00
"	Roodoll, H	Mar. 1940	"	396.00
"	Roodoll, H	June 1940	"	264.00
"	Redwine, J	Mar. 1940	"	396.00

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
Unknown	Hadwin, [illegible]	June 1940	None	396.00
"	Rogine, J	Sept. 1940	"	
"	Rounds, H	Mar. 1940	"	132.00
"	Rounds, H	June 1940	"	396.00
"	Rounds, H	Sept. 1940	"	396.00
"	Rounds, H	Dec. 1940	"	396.00
"	Singler, J	Sept. 1939	"	132.00
"	Singler, J	Dec. 1939	"	396.00
"	Singler, J	Mar. 1939	"	132.00
"	Stevens, H. C	Mar. 1939	"	792.00
"	Stevens, R. C	June 1939	"	792.00
"	Stevens, R. C	Sept. 1939	"	792.00
"	Stevens, R. C	Dec. 1939	"	624.00
"	Stevens, R. C	Mar. 1939	"	792.00
"	Stevens, R. C	June 1939	"	792.00
"	Stevens, R. C	Sept. 1939	"	792.00
"	Stevens, R. C	Dec. 1939	"	624.00
		Total	None	13,392.00
		Difference Between Totals		13,392.00

Unknown	Stevens, R. C	Mar. 1940	None	792.00
"	Stevens, R. C	June 1940	"	792.00
"	Stevens, R. C	Sept. 1940	"	792.00
"	Stevens, R. C	Dec. 1940	"	622.00
"	Strans, W	Mar. 1938	"	396.00
"	Strans, W	June 1938	"	396.00
"	Strans, W	Sept. 1938	"	396.00
"	Strans, W	Dec. 1938	"	396.00
"	Strans, W	Mar. 1939	"	396.00
"	Strans, W	June 1939	"	396.00
"	Strans, W	Sept. 1939	"	396.00
"	Strans, W	Dec. 1939	"	396.00
"	Strans, W	Mar. 1940	"	396.00
"	Strans, W	June 1940	"	396.00
"	Strans, W	Sept. 1940	"	396.00
"	Strans, W	Dec. 1940	"	396.00
"	Shorten, S	June 1939	"	264.00
"	Shorten, S	Sept. 1939	"	264.00
"	Siler, R	June 1939	"	132.00
"	Siler, R	Sept. 1939	"	396.00
"	Siler, R	Dec. 1939	"	396.00
"	Siler, R	Mar. 1939	"	396.00
"	Siler, H	June 1940	"	396.00
"	Siler, R	Sept. 1940	"	132.00
"	Seralin, W	Sept. 1939	"	264.00
"	Seralin, W	Dec. 1939	"	264.00
"	Seralin, W	Sept. 1940	"	
"	Suvee, L	Sept. 1939	"	264.00
"	Suven, L	Dec. 1939	"	396.00
"	Suvee, L	Mar. 1940	"	396.00
"	Suvee, L	June 1940	"	396.00
		Totals	None	12,108.00
		Difference Between Totals		12,108.00

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Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars C*
Unknown	Suver, L	Sept. 1940	None	396.0
"	Suver, L	Dec. 1940	"	396.0
"	Scharch, N	Mar. 1940	"	132.0
"	Scharch, N	June 1940	"	264.0
"	Scharch, N	Sept. 1940	"	396.0
"	Scharch, N	Dec. 1940	"	396.0
"	Suice, G	Mar. 1940	"	396.0
"	Suice, G	June 1940	"	396.0
"	Suice, G	Sept. 1940	"	396.0
"	Suice, G	Dec. 1940	"	396.0
"	Selfere, J. W	June 1940	"	132.0
"	Selfere, J. W	Sept. 1940	"	396.0
"	Selfere, J. W	Dec. 1940	"	396.0
"	Schafer, G	Dec. 1940	"	396.0
"	Taylor, G. W	Mar. 1938	"	396.0
"	Taylor, G. W	June 1938	"	396.0
"	Taylor, G. W	Sept. 1938	"	396.0
"	Taylor, G. W	Dec. 1938	"	396.0
"	Taylor, G. W	Mar. 1938	"	396.0
"	Taylor, G. W	June 1939	"	396.0
"	Taylor, G. W	Sept. 1939	"	132.0
"	Tady, T	Mar. 1938	"	396.0
"	Tady, T	June 1938	"	264.0
"	Townsend, L	June 1940	"	264.0
"	Townsend, L	Sept. 1940	"	396.0
"	Townsend, L	Dec. 1940	"	396.0
"	Van Horne, W. M	Mar. 1938	"	396.0
"	Van Horne, W. M	June 1938	"	396.0
"	Van Horne, W. M	Sept. 1938	"	396.0
"	Van Horne, W. M	Dec. 1938	"	396.0
"	Van Horne, W. M	Mar. 1939	"	396.0
		Totals,	None	11,088.0
		Difference Between Totals,		11,088.0

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Unknown	Van Horne, W. M	June 1939	None	396.0
"	Van Horne, W. M	Sept. 1939	"	396.0
"	Van Horne, W. M	Dec. 1939	"	396.0
"	Van Horne, W. M	Mar. 1940	"	396.0
"	Van Horne, W. M	June 1940	"	396.0
"	Van Horne, W. M	Sept. 1940	"	396.0
"	Van Horne, W. M	Dec. 1940	"	396.0
"	Vesser, C	Mar. 1938	"	396.0
"	Vesser, C	June 1938	"	264.0
"	Ward, W. M	Mar. 1938	"	396.0
"	Ward, W. H	June 1938	"	396.0
"	Ward, W. H	Sept. 1938	"	396.0
"	Ward, W. H	Dec. 1938	"	396.0
"	Ward, W. H	Mar. 1939	"	396.0
"	Ward, W. H	June 1939	"	132.0

ee's t No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
wn	Whitaker, O. N	Mar. 1938	None	396.00
	Whitaker, O. N	June 1938	"	396.00
	Whitaker, O. N	Sept. 1938	"	396.00
	Whitaker, O. N	Dec. 1938	"	396.00
	Whitaker, O. N	Mar. 1939	"	396.00
	Whitaker, O. N	June 1939	"	132.00
	Walfore, E. H	Mar. 1938	"	
	Walfore, E. H	June 1839	"	264.00
	Walfore, E. H	Sept. 1938	"	396.00
	Walfore, E. H	Dec. 1938	"	396.00
	Walfore, E. H	Mar. 1939	"	396.00
	Walfore, E. H	June 1939	"	396.00
	Walfore, E. H	Sept. 1939	"	396.00
	Walfore, E. H	Dec. 1939	"	396.00
	Walfore, E. H	Mar. 1940	"	396.00
	Walfore, E. H	June 1940	"	396.00
		Totals	None	11,088.00
		Difference Between Totals,		11,088.00
				Sheet XXX of 26
own	Walfore, E. H	Sept. 1940	None	396.00
	Walfore, E. H	Dec. 1940	"	396.00
	Wells, E. C	June 1939	"	264.00
	Wells, E. C	Sept. 1939	"	396.00
	Wells, E. C	Dec. 1939	"	396.00
	Wells, E. C	Mar. 1940	"	396.00
	Wells, E. C	June 1940	"	396.00
	Wells, E. C	Sept. 1940	"	396.00
	Wells, E. C	Dec. 1940	"	396.00
	Walter, O	May 1939	"	132.00
	Walter, O	June 1939	"	396.00
	Walfe, E. H	Sept. 1939	"	
	Woolf, S	June 1939	"	396.00
	Woolf, S	Sept. 1939	"	396.00
	Woolf, S	Dec. 1939	"	132.00
	Winfrey, H. J	June 1940	"	132.00
	Winfrey, H. J	Sept. 1940	"	396.00
	Winfrey, H. J	Dec. 1940	"	264.00
	Weigand, O. W	Dec. 1940	"	264.00
	Schreffler, H	Dec. 1940	"	132.00
	Yeager	Mar. 1939	"	132.00
	Yeager	June 1939	"	396.00
	Sackerman, S	Sept. 1939	"	264.00
	Sackerman, S	Dec. 1939	"	396.00
	Sackerman, S	Mar. 1939	"	396.00
	Sackerman, S	June 1939	"	396.00
	Sackerman, S	Sept. 1939	"	396.00
	Sackerman, S	Dec. 1939	"	396.00
	Sackerman, S	Mar. 1940	"	396.00
	Sackerman, S	June 1940	"	132.00
		Totals	None	1,392.00
		Difference Between Totals		1,392.00

74 Sheet XXVI of 2

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return		Correct Amount of Wages	
			Dollars	*Cents*	*Dollars*	*Cents*
Unknown	Dummy	Mar. 1938	None		8,177	00
"	Dummy	June 1938	"		8,305	00
"	Dummy	Sept. 1938	"		8,360	00
"	Dummy	Dec. 1938	"		8,086	00
"	Dummy	Mar. 1939	"		7,810	00
"	Dummy	June 1939	"		11,069	00
"	Dummy	Sept. 1939	"		10,175	00
"	Dummy	Dec. 1939	"		9,323	00
"	Dummy	Mar. 1940	"		9,790	00
"	Dummy	June 1940	"		11,165	00
"	Dummy	Sept. 1940	"		11,385	00
"	Dummy	Dec. 1940	"		11,165	00
"	G. Suess	June 1939	"		132	00
"	G. Suess	Sept. 1939	"		396	00
"	G. Suess	Dec. 1939	"		396	00
"	Dummy	June 1940	"		396	00
"	Dummy	Sept. 1940	"		396	00
"	Dummy	Dec. 1940	"		396	00
"	Van Horn, D. D	June 1940	"		264	00
"	Van Horn, D. D	Sept. 1940	"		132	00
		Totals	None		117,318	00
		Difference Between Totals			117,318	00

I certify that the foregoing information is true and correct to the best of my knowledge and belief.

Date ....., 194.... ....., *Collector*

By ....., *Deputy Collector*

....
(Signature of employer when prepared by him) (District)

Send this form in duplicate to the Collector of Internal Revenue with whom the erroneous return was filed.

16—1792

75 **EXHIBIT "H".**

Employer's Tax Return.

Under Federal Insurance Contributions Act.

Form SS-1 a (Rev. Nov. 1940)
Treasury Department
Internal Revenue Service.

Read Instructions Carefully

Supplemental Return.

This Copy Must Be Kept By Employer.

This copy, together with a copy of each related schedule or statement which the employer is required to keep, must be carefully preserved by the employer at his principal place of business, and should at all times be available for inspection by officers of the Bureau of Internal Revenue. See Par. I of General Instructions on back of this copy.

1.	Number of employees listed in Schedule A.		
2.	Total taxable wages Paid (from Item 21)		$36,092.00
	Employers' Tax.		
3.	1% of Item 2	$360.92	
4.	Credit or adjustment	$	
	(Must be explained. See instructions)		
5.	Total employers' tax		$ 360.92
	Employees' Tax.		
6.	1% of Item 2	$360.92	
7.	Credit or adjustment	$	
	(Must be explained. See instructions)		
8.	Total employees' tax		$ 360.92
9.	Total tax (total of Items 5 and 8)		$ 721.84

Identification No. .....

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

10. Type or print in this space employer's name, address of principal place of business, and identification number. (See Item 13 of Instructions.)

Supplemental Return

Do Not Detach at This Line.

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

(List all employees to whom taxable wages were paid during the quarter).

Identification No. .....

Greyvan Line, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

13. Type or print in this space employer's name, address of principal place of business, and identification number. (See Item 13 of Instructions.)

---

14. Date quarter ended Mar. 31, 1941.

If there is not enough space to list all employees below, use Schedule A continuation sheets (Form SS-1 b). Each such sheet must show a page number beginning with number 2 (See instructions on back of continuation sheet.)

15. Total pages of return, including continuation sheets attached 3.

16. Has a change of ownership, or other transfer, of the business taken place during the quarter? No. If so, attach the statement called for in Item 16 of Instructions.
(Yes or No)

(Left hand margin) >If any employee's account number is unknown, follow Item 17 of instruction<.

Employee's Account Number (17) / Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19) Dollars	Cents	State (20)
Balch, J.	396	—	
Barnett, J.	264	—	
Bauholzer, J.	264	—	
Birdsell, F.	396	—	
Blumenauer, H.	396	—	
Barush, J.	396	—	
Bossert, G.	132	—	
Brenizer, J.	396	—	
Christner, G.	132	—	
Clifford, W.	—o—		
Connell, L.	396	—	
Cordes, H.	396	—	
Crowcroft, G. A.	396	—	
Dean, C. L.	396	—	
Dennis, S.	396	—	
Durham, E.	264	—	
Eggers, C.	396	—	
Elliston, A.	396	—	
Finkbeiner, W.	396	—	
Foote, D.	792	—	
Garrison, J.	396	—	
Graham, J.	396	—	
Graham, M.	396	—	
Gray, A.	132	—	
Grays, Robert	396	—	
Greiner, H.	396	—	
Hallberg, C.	396	—	
Haraburda, L.	396	—	
Harrold, E. A.	—o—		
Hart, E	132	—	
Hart, S. S.	396	—	
Hastings, W.	132	—	
Hiesley, W.	264	—	
Hutchins, H. W.	396	—	
Ives, D.	396	—	
Kaub, E.	396	—	
Lange, W.	792	—	
Total for This Page— Total taxable wages paid	$12804	—	

21. Total for This Return—
Total taxable wages paid $36092 00 (This total must be the same as Item 2 above.)

(Do not use this space)

22. Number of taxable employees on pay roll covering last pay period (or pay periods) of quarter .....

This form must be filed with U. S. Collector of Internal Revenue on or before the last day of the first month following the close of the quarter year.

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Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

Continuation Sheet.

Form SS-1 b
Treasury Department
Internal Revenue Service
(Revised Nov. 1940)

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

Type or print in this space employer's name, address of principal place of business, and identification number exactly as shown in Items 10 and 13 on Forms SS-1 a.

Date Quarter Ended Mar. 31st, 1941.

A Summary Sheet Must Accompany This Form
Read Instructions Carefully.

(Left hand margin) >If any employee's account number is unknown, follow Item 17 of instructions on reverse of Form SS-1 a.<

Employee's Account Number
(17)

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19)
Lichtenberg, J.	660.00
Lincoln, Jr., A.	132.00
McGovern, L.	396.00
McNay, S. E.	264.00
Miller, J.	396.00
Morgan, H.	396.00
Nagengast, J.	396.00
Narovec, H.	396.00
Oakley, J.	396.00
Oliver, L.	396.00
Osborn, L.	396.00
Parks, W.	396.00
Parsley, M. R.	396.00
Petke, W.	396.00
Preece, W.	396.00
Riflein, C.	396.00
Riser, J.	132.00
Rounds, W. M.	396.00
Schaeffer, Jr., G.	396.00
Scharch, E.	396.00
Schreffler, H.	396.00
Stevens, H.	792.00
Strass, W.	396.00
Suess, G.	528.00
Suess, L.	396.00
Telford, J.	396.00
Urban, A.	132.00
Van Horne, M. W.	396.00
Weigand, C.	396.00
Wells, C. N.	264.00
Wells, E.	396.00
Wulfors, E.	396.00
York, H.	264.00
Ainsworth, E.	—o—
Alleman, H.	—o—
Allsop, J.	—o—
Brown, C.	—o—

Buckley, I.	—0—
Clegg, J.	—0—
Dempster, R.	—0—
Ellifson, M.	—0—
Fretsche, R.	—0—
Ginder, C.	—0—
Total for This Page— Total taxable wages paid	$12672.00

77 Page No. 3

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

Continuation Sheet.

Form SS-1 b

Treasury Department
Internal Revenue Service
(Revised Nov. 1940)

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

Type or print in this space employer's name, address of principal place of business, and identification number exactly as shown in Items 10 and 13 on Forms SS-1 a.

Date Quarter Ended Mar 31, 1941.

A Summary Sheet Must Accompany This Form
Read Instructions Carefully.

(Left hand margin) >If any employee's account number is unknown, follow Item 17 of instructions on reverse of Form SS-1 a.<

Name of Employee (Type or print) (18)	Employee's Account Number (17) Taxable Wages Paid Under Federal Insurance Contributions Act (19)
Hancock, R.	—0—
Hoffman, C.	—0—
Matson, C.	—0—
Nimz, J.	—0—
Novak, F.	—0—
Nunis, A.	—0—
Pembroke, R.	—0—
Scott, R.	—0—
Walther, R.	—0—
Weaver, J.	—0—
Wick, J.	—0—
Wilson, C.	—0—
Unknown Helpers	10,616.00
Total for This Page— Total taxable wages paid	$10,616.00

78 Employer's Tax Return.

Under Federal Insurance Contributions Act.

Form SS-1 a (Rev. Nov. 1940)
Treasury Department
Internal Revenue Service.

Read Instructions Carefully

Supplemental Return.

This Copy Must Be Kept By Employer.

This copy, together with a copy of each related schedule or statement which the employer is required to keep, must be carefully preserved by the employer at his principal place of business, and should at all [redacted]s be available for inspection by officers of the Bureau [redacted] Internal Revenue. See Par. I of General Instructions on back of this copy.

1.	Number of employees listed in Schedule A.		
2.	Total taxable wages Paid (from Item 21).		$43,946
	Employers' Tax.		
3.	1% of Item 2.....	$439.46	
4.	Credit or adjustment.....	$	
	(Must be explained. See instructions)		
5.	Total employers' tax.....		$ 439.46
	Employees' Tax.		
6.	1% of Item 2.....	$439.46	
7.	Credit or adjustment.....	$	
	(Must be explained. See instructions)		
8.	Total employees' tax.....		$ 439.46
9.	Total tax (total of Items 5 and 8).....		$ 878.92

Identification No. .....

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

10. Type or print in this space employer's name, address of principal place of business, and identification number. (See Item 13 of Instructions.)

Supplemental Return

Do Not Detach at This Line.

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

(List all employees to whom taxable wages were paid during the quarter).

Identification No. .....

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

13. Type or print in this space employer's name, address of principal place of business, and identification number. (See Item 13 of Instructions.)

---

14. Date quarter ended June 30, 1941.

If there is not enough space to list all employees below, use Schedule A continuation sheets (Form SS-1 b). Each such sheet must show a page number beginning with number 2. (See instructions on back of continuation sheet.)

15. Total pages of return, including continuation sheets attached 3.

16. Has a change of ownership or other transfer, of the business taken place during the quarter? No. If (Yes or No) so, attach the statement called for in Item 16 of Instructions.

(Left hand margin) >If any employee's account number is unknown, follow Item 17 of instructions<.

Employee's Account Number
(17)

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19) Dollars	Cents
Balch, J.	396	—
Barnett, J.	—o—	
Banholzer, J.	396	—
Birdsell, F.	264	—
Blumenauer, H.	396	—
Barush, J.	396	—
Bossert, G.	396	—
Brenizer, J.	396	—
Christner, G.	396	—
Clifford, W.	396	—
Connell, L.	132	—
Cordes, H.	396	—
Crowcroft, G. A.	396	—
Dean, C. L.	396	—
Dennis, S.	132	—
Durham, N.	396	—
Eggers, C.	396	—
Elliston, A.	396	—
Finkbeiner, W.	396	—
Foote, D.	792	—
Garrison, J.	396	—
Graham, J.	396	—
Graham, M.	396	—
Gray, A.	264	—
Grays, Robert	396	—
Greiner, H.	396	—
Hallberg, C.	396	—
Haraburda, L.	396	—
Harrold, E. A.	264	—
Hart, E.	396	—
Hart, S. S.	396	—
Hastings, W.	396	—
Hiesley, W.	396	—
Hutchins, H. W.	396	—
Ives, D.	396	—
Kaub, E.	396	—
Lange, W.	792	—
Total for This Page— Total taxable wages paid	$14124	

21. Total for This Return— Total taxable wages paid	$43946	00	This total must be the same as Item 2 above.

(Do not use this space)

22. Number of taxable employees on pay roll covering last pay period (or pay periods) of quarter .....

This form must be filed with U. S. Collector of Internal Revenue on or before the last day of the first month following the close of the quarter year.

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Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

Continuation Sheet.

Form SS-1 b
Treasury Department
Internal Revenue Service
(Revised Nov. 1940)

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

Type or print in this space employer's name, address of principal place of business, and identification number exactly as shown in Items 10 and 13 on Form SS-1 a.

Date Quarter Ended June 30, 1941.

A Summary Sheet Must Accompany This Form
Read Instructions Carefully.

(Left hand margin) >If any employee's account number is unknown, follow Item 17 of instructions on reverse of Form SS-1 a.<

Employee's Account Number
(17)

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19)
Lichtenberg, J.	792.00
Lincoln, Jr., A.	—o—
McGovern, L.	—o—
McNay, S. E.	—o—
Miller, J.	—o—
Morgan, H.	792.00
Nagengast, J.	—o—
Narovec, H.	396.00
Oakley, J.	396.00
Oliver, L.	264.00
Osborn, L.	396.00
Parks, W.	396.00
Parsley, M. R.	396.00
Petke, W.	396.00
Preece, W.	396.00
Riflein, C.	396.00
Rizer, J.	396.00
Rounds, W. M.	396.00
Schaeffer, Jr., G.	132.00
Scharch, E.	396.00
Schreffler, H.	396.00
Stevens, H.	792.00
Strass, W.	396.00
Suess, C.	792.00
Suess, L.	396.00
Telford, J.	396.00
Urban, A.	396.00
Van Horne, M. W.	264.00
Weigand, C.	396.00
Wells, C. H.	264.00
Wells, E.	396.00
Wulfoors, B.	396.00
York, R.	396.00
Ainsworth, E.	264.00
Alleman, H.	264.00
Allsop, J.	—o—

Brown, C.	396.00
Buckley, T.	264.00
Clegg, J.	132.00
Dempster, R.	264.00
Ellifson, M.	264.00
Fretsche, R.	264.00
Ginder, C.	—o—
Total for This Page— Total taxable wages paid	$14124.00

80 Page No. 3

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

Continuation Sheet.

Form SS-1 b
Treasury Department
Internal Revenue Service
(Revised Nov. 1940)

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

Type or print in this space employer's name, address of principal place of business, and identification number exactly as shown in Items 10 and 13 on Form SS-1 a.

Date Quarter Ended June 30, 1941.

A Summary Sheet Must Accompany This Form
Read Instructions Carefully.

(Left hand margin) >If any employee's account number is unknown, follow Item 17 of instructions on reverse of Form SS-1 a.<

Employee's Account Number
(17)

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19)
Hancock, R.	396.00
Hoffman, C.	132.00
Matson, C.	132.00
Nimz, J.	396.00
Novak, F.	—o—
Nunis, A.	396.00
Pembroke, R.	396.00
Scott, R.	—o—
Walther, R.	264.00
Weaver, J.	264.00
Wick, J.	—o—
Wilson, C.	396.00
Unknown Helpers	12,926.00
Total for This Page— Total taxable wages paid	$15,698.00

81 **Employer's Tax Return.**

Under Federal Insurance Contributions Act.

Form SS-1 a (Rev. Nov. 1940)
Treasury Department
Internal Revenue Service.

Read Instructions Carefully

Supplemental Return.

This Copy Must Be Kept By Employer.

This copy, together with a copy of each related schedule or statement which the employer is required to keep, must be carefully preserved by the employer at his principal place of business, and should at all times be available for inspection by officers of the Bureau of Internal Revenue. See Par. I of General Instructions on back of this copy.

1.	Number of employees listed in Schedule A.		
2.	Total taxable wages Paid (from Item 21).		$44,881.00
	Employers' Tax.		
3.	1% of Item 2	$448.81	
4.	Credit or adjustment	$	
	(Must be explained. See instructions)		
5.	Total employers' tax		$ 448.81
	Employees' Tax.		
6.	1% of Item 2	$448.81	
7.	Credit or adjustment	$	
	(Must be explained. See instructions)		
8.	Total employees' tax		$ 448.81
9.	Total tax (total of Items 5 and 8)		$ 897.62

Identification No. .....

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

10. Type or print in this space employer's name, address of principal place of business, and identification number. (See Item 13 of Instructions.)

Supplemental Return

Do Not Detach at This Line.

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

(List all employees to whom taxable wages were paid during the quarter).

Identification No. .....

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

13. Type or print in this space employer's name, address of principal place of business, and identification number. (See Item 13 of Instructions.)

---

14. Date quarter ended Sept. 30, 1941.

If there is not enough space to list all employees below, use Schedule A continuation sheets (Form SS-1 b). Each such sheet must show a page number beginning with number 2. (See instructions on back of continuation sheet.)

15. Total pages of return, including continuation sheets attached 3.

16. Has a change of ownership, or other transfer, of the business taken place during the quarter? No. If (Yes or No) so, attach the statement called for in Item 16 of Instructions.

(Left hand margin) >If any employee's account number is unknown, follow Item 17 of instructions<.

Name of Employee (Type or print) (18)	Employee's Account Number (17) Taxable Wages Paid Under Federal Insurance Contributions Act (19)	
	Dollars	Cents
Balch, J.	396	—
Bauholzer, J.	396	—
Blumenauer, H.	396	—
Barush, J.	396	—
Bossert, G.	396	—
Brenizer, J.	396	—
Christner, G.	264	—
Clifford, M.	396	—
Cordes, H.	396	—
Crowcroft, G. A.	396	—
Dean, C. L.	396	—
Durham, E.	396	—
Eggers, C.	396	—
Elliston, A.	132	—
Finkbeiner, W.	396	—
Foote, D.	792	—
Garrison, J.	264	—
Graham, J.	396	—
Graham, M.	396	—
Grays, Robert	264	—
Hallberg, C.	396	—
Harburda, L.	396	—
Hart, E.	396	—
Hart, S. S.	396	—
Hiesley, W.	396	—
Hutchins, H. W.	396	—
Kaub, E.	396	—
Lange, W.	792	—
Lichtenberg, J.	528	—
Morgan, H.	792	—
Oakley, J.	132	—
Osborn, L.	396	—
Parks, W.	396	—
Parsley, M. R.	396	—
Petka, W.	396	—
Preece, W.	396	—
Rizer, J.	396	—
Total for This Page— Total taxable wages paid	$15048	—

21. Total for This Return—
Total taxable wages paid $44881 00 { This total must be the same as Item 2 above.

(Do not use this space)

22. Number of taxable employees on pay roll covering last pay period (or pay periods) of quarter.....

This form must be filed with U. S. Collector of Internal Revenue on or before the last day of the first month following the close of the quarter year.

82 Page No. 2

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

Continuation Sheet.

Form SS-1 b
Treasury Department
Internal Revenue Service
(Revised Nov. 1940)

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

Type or print in this space employer's name, address of principal place of business, and identification number exactly as shown in Items 10 and 13 on Form SS-1 a.

Date Quarter Ended Sept. 30, 1941.

A Summary Sheet Must Accompany This Form
Read Instructions Carefully.

(Left hand margin) >If any employee's account number is unknown, follow Item 17 of instructions<.

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19)
Rounds, W. M.	396.00
Scharch, E.	396.00
Schreffler, H.	396.00
Stevens, H. C.	792.00
Strass, W.	396.00
Suess, G.	396.00
Suess, L.	396.00
Telford, J.	132.00
Weigand, C.	396.00
Wells, E.	396.00
Wulfers, E.	396.00
York, R.	396.00
Ainsworth, E.	396.00
Alleman, H.	396.00
Alsops, J.	396.00
Brown, C.	132.00
Buckley, I.	396.00
Clegg, J.	396.00
Dempster, R.	396.00
Ellefson, M.	396.00
Ginder, C.	396.00
Hancock, R.	132.00
Hoffman, C.	264.00
Matson, C.	396.00
Nims, J.	396.00
Novak, F.	396.00
Nunis, A.	396.00
Pembroke, R.	396.00
Scott, R.	396.00
Walther, R.	396.00
Weaver, J.	264.00
Wick, J.	396.00
Wilson, C.	396.00
Water, S.	396.00
Conover, J.	264.00
Jopson, R.	396.00
Johnson, J. D.	132.00
Kraus, C.	396.00
Maxwell, I.	132.00
Owens, A.	396.00
Pendley, C.	132.00
Quilland, L.	396.00
Total for This Page— Total taxable wages paid	$15,048.00

83 Page No. 3

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

Continuation Sheet.

Form SS-1 b
Treasury Department
Internal Revenue Service
(Revised January 1940)

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

Enter in this space employer's name, address of principal place of business, and identification number exactly as shown in Items 10 and 13 on Form SS-1a.

Date Quarter Ended Sept. 30, 1941.

Read Instructions Carefully.

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19)
Sapper, C.	396.00
Stockdale, Jr., F.	396.00
Tuinstra, K.	396.00
Watson, T.	396.00
Devine, E.	—0—
Rowles, G.	—0—
Scott, G.	—0—
Smits, A.	—0—
Wagner, R.	—0—
Unknown Helpers	13,201.00
Total for This Page—Total taxable wages paid	$14,785.00

84 **Supplemental Employer's Tax Return.**

Under Federal Insurance Contributions Act.

Form SS-1 a (Rev. Nov. 1940)
Treasury Department
Internal Revenue Service

Read Instructions Carefully

This Copy Must Be Kept By Employer.

This copy, together with a copy of each related schedule or statement which the employer is required to keep, must be carefully preserved by the employer at his principal place of business, and should at all times be available for inspection by officers of the Bureau of Internal Revenue. See Par. I of General Instructions on back of this copy.

1.	Number of employees listed in Schedule A		
2.	Total taxable wages Paid (from Item 21)		$39,917.00
	Employers' Tax.		
3.	1% of Item 2	$399.17	
4.	Credit or adjustment	$	
	(Must be explained. See instructions)		
5.	Total employers' tax		$ 399.17
	Employees' Tax.		
6.	1% of Item 2	$399.17	
7.	Credit or adjustment	$	
	(Must be explained. See instructions)		
8.	Total employees' tax		$ 399.17
9.	Total tax (total of Items 5 and 8)		$ 798.34

Identification No. .....

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

10. Type or print in this space employer's name, address of principal place of business, and identification number. (See Item 13 of Instructions.)

Supplement Return

Do Not Detach at This Line.

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

(List all employees to whom taxable wages were paid during the quarter).

Identification No. .....

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

13. Type or print in this space employer's name, address of principal place of business, and identification number. (See Item 13 of Instructions.)

---

14. Date quarter ended Dec. 31, 1941.

If there is not enough space to list all employees below, use Schedule A continuation sheets (Form SS-1 b). Each such sheet must show a page number beginning with number 2. (See instructions on back of continuation sheet.)

---

15. Total pages of return, including continuation sheets attached—3.

16. Has a change of ownership, or other transfer, of the business taken place during the quarter? No. If so, (Yes or No) attach the statement called for in Item 16 of Instructions.

(Left hand margin) >If any employee's account number is unknown, follow Item 17 of instructions<.

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19) Dollars	Cents
Balch, J...	264	00
Bauholzer, J.	396	—
Blumenauer, H.	396	—
Barush, J.	396	—
Bossert, G.	396	—
Brenizer, J.	396	—
Christner, G.	—0—	
Clifford, M.	396	—
Cordes, N.	396	—
Crowcroft, G. A.	396	—
Dean, C. L.	396	—
Durham, E.	396	—
Eggers, C.	396	—
Elliston, A.	264	—
Finkbeiner, W.	396	—
Foote, D.	624	—
Garrison, J.	—0—	
Graham, J.	396	—
Graham, M.	264	—
Grays, Robert	—0—	
Hallberg, C.	264	—
Harburda, L.	264	—
Hart, E.	396	—
Hart, S. S.	396	—
Hiesley, W.	396	—
Hutchins, H. W.	396	—
Kaub, E.	264	—
Lange, W.	528	—
Lichtenberg, J.	—0—	
Morgan, H.	396	—
Oakley, J.	—0—	
Osborn, L.	396	—
Parks, W.	132	—
Parsley, M. R.	396	—
Petke, W.	396	—
Preece, W.	396	—
Rizer, J.	396	—
Total for This Page— Total taxable wages paid	$11,976	—

21. Total for This Return—
Total taxable wages paid $39,917 00 } This total must be the same as Item 2 above.

(Do not use this space)

22. Number of taxable employees on pay roll covering last pay period (or pay periods) of quarter.....

This form must be filed with U. S. Collector of Internal Revenue on or before the last day of the first month following the close of the quarter year.

85 Page No. 2

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

Continuation Sheet.

Form SS-1 b
Treasury Department
Internal Revenue Service
(Revised Nov. 1940)

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

Type or print in this space employer's name, address of principal place of business, and identification number exactly as shown in Items 10 and 13 on Form SS-1 a.

Date Quarter Ended Dec. 31, 1941.

A Summary Sheet Must Accompany This Form.
Read Instructions Carefully.

(Left hand margin) >If employee's account number is unknown, follow Item 17 of Instructions of reverse of Form ss-1 a.<

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19)
Rounds, W. M.	396.00
Scharch, R.	396.00
Schreffler, H.	264.00
Stevens, H. C.	624.00
Strass, W.	396.00
Suess, G.	396.00
Suess, L.	396.00
Telford, J.	—0—
Weigand, C.	132.00
Wells, E.	396.00
Wulfers, E.	396.00
York, R.	396.00
Ainsworth, E.	264.00
Alleman, M.	264.00
Alsops, J.	264.00
Brown, C.	—0—
Buckley, I.	396.00
Clegg, J.	396.00
Dempster, R.	396.00
Ellefson, M.	396.00
Ginder, C.	396.00
Hancock, H.	—0—
Hoffman, C.	—0—
Matson, C.	396.00
Nims, J.	396.00
Novak, F.	396.00
Nunis, A.	396.00
Pembroke, R.	396.00
Scott, R.	396.00
Walther, R.	396.00
Weaver, J.	—0—
Wick, J.	396.00
Wilson, C.	132.00
Cater, S.	396.00
Conover, J.	—0—
Jepson, R.	396.00
Johnson, J. D.	396.00
Kraus, C.	396.00
Maxwell, I.	132.00
Owens, A.	132.00
Pendley, C.	396.00
Quilland, L.	264.00
Total for This Page— Total taxable wages paid.	$12,768.00

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

Continuation Sheet.

Form SS-1 b
Treasury Department
Internal Revenue Service
(Revised January 1940)

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

Enter in this space employer's name, address of principal place of business, and identification number exactly as shown in Items 10 and 13 on Form SS-1a.

Date Quarter Ended Dec. 31, 1941.

Read Instructions Carefully.

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19)
Sapper, C.	396.00
Stockdale, Jr., F.	396.00
Tuinstra, K.	396.00
Watson, T.	396.00
Devine, E.	396.00
Rowles, C.	396.00
Scott, G.	264.00
Smits, A.	396.00
Wagner, E.	396.00
Unknown Helpers	11,741.00
Total for This Page— Total taxable wages paid	$15,173.00

87

EXHIBIT "I".

Employer's Tax Return.
Under Federal Insurance Contributions Act.

Supplemental Return.

Form SS-1 a (Rev. Nov. 1940) — Read Instructions Carefully
Treasury Department
Internal Revenue Service

Supplemental Return.

This Copy Must Be Kept By Employer.

Mar. 31st, 1942.

This copy, together with a copy of each related schedule or statement which the employer is required to keep, must be carefully preserved by the employer at his principal place of business, and should at all times be available for inspection by officers of the Bureau of Internal Revenue. See Par. I of General Instructions on back of this copy.

1.	Number of employees listed in Schedule A		
2.	Total taxable wages Paid (from Item 21)		$44,137.00
	Employers' Tax.		
3.	1% of Item 2	$441.37	
4.	Credit or adjustment	$	
	(Must be explained. See instructions)		
5.	Total employers' tax		$ 441.37
	Employees' Tax.		
6.	1% of Item 2	$441.37	
7.	Credit or adjustment	$	
	(Must be explained. See instructions)		
8.	Total employees' tax		$ 441.37
9.	Total tax (total of Items 5 and 8)		$ 882.74

Identification No. .....

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

10. Type or print in this space employer's name, address of principal place of business, and identification number. (See Item 13 of Instructions.)

Supplemental Return

Do Not Detach at This Line.

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

(List all employees to whom taxable wages were paid during the quarter).

Identification No. .....

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

13. Type or print in this space employer's name, address of principal place of business, and identification number. (See Item 13 of Instructions.)

---

14. Date quarter ended Mar. 31st, 1942.

If there is not enough space to list all employees below, use Schedule A continuation sheets (Form SS-1 b). Each such sheet must show a page number beginning with number 2. (See instructions on back of continuation sheet.)

---

15. Total pages of return, including continuation sheets attached—2.

16. Has a change of ownership, or other transfer, of the business taken place during the quarter? No. If so, (Yes or No)
attach the statement called for in Item 16 of Instructions.

(Left hand margin) >If any employee's account number is unknown, follow Item 17 of instructions<.

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19)	
	Dollars	Cents
Bauholzer, J.	155	—
Blumenauer, H.	465	—
Barush, J.	465	—
Bossert, G.	465	—
Brenizer, J.	465	—
Clifford, M.	465	—
Cordes, H.	465	—
Crowcroft, G. A.	465	—
Dean, C. L.	465	—
Durham, E.	465	—
Eggers, C.	465	—
Elliston, A.	465	—
Finkbeiner, W.	465	—
Foote, D.	930	—
Graham, J.	465	—
Hart, S. S.	465	—
Hutchins, H. W.	465	—
Lange, W.	465	—
Morgan, H.	930	—
Osborn, L.	465	—
Parsley, M. R.	465	—
Preece, W.	465	—
Rizer, J.	465	—
Rounds, W. M.	465	—
Schreffler, H.	465	—
Stevens, H. C.	775	—
Strass, W.	465	—
Suess, G.	465	—
Suess, L.	465	—
Wells, E.	465	—
Wulfers, E.	465	—
York, R.	465	—
Ainsworth, E.	465	—
Buckley, I.	465	—
Clegg, J.	465	—
Dempster, R.	465	—
Ellefson, M.	465	—
Total for this Page— Total taxable wages paid	$18,135	00

21. Total for This Return—
Total taxable wages paid $44,137 00 } This total must be the same as Item 2 above.

(Do not use this space)

22. Number of taxable employees on pay roll covering last pay period (or pay periods) of quarter

This form must be filed with U. S. Collector of Internal Revenue on or before the last day of the first month following the close of the quarter year.

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

88 Page No. 2

Continuation Sheet

Form SS-1 b

Treasury Department
Internal Revenue Service
(Revised January 1940)

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

Enter in this space employer's name, address of principal place of business, and identification number exactly as shown in Items 10 and 13 on Form SS-1a.

Date Quarter Ended March 31st, 1942.

Read Instructions Carefully.

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19)
Ginder, C.	465.00
Matson, C.	465.00
Nimz, J.	310.00
Novak, F.	465.00
Nunis, A.	465.00
Pembroke, R.	465.00
Scott, R.	465.00
Walther, R.	465.00
Wick, J.	465.00
Cater, S.	465.00
Jepson, R.	465.00
Johnson, J. D.	465.00
Kraus, C.	465.00
Pendley, C.	465.00
Quelland, L.	310.00
Sapper, C.	465.00
Stockdale, Jr., F.	465.00
Tuinstra, K.	465.00
Watson, P.	465.00
Devine, E.	465.00
Rowles, C.	465.00
Scott, G.	465.00
Smits, A.	465.00
Wagner, R.	465.00
Hayford, R.	465.00
Kunz, A.	155.00
Keytunen, W.	310.00
Campbell, D.	465.00
Davis, R. S.	155.00
Moorehouse, J.	310.00
Weinz, A.	310.00
Unknown Helpers	12,982.00
Total for this Page— Total taxable wages paid	$26,002.00

89 And on the same day, to wit, on the 1st day of February, 1944, being one of the days of the regular December, 1943, term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable William J. Campbell, District Judge, appears the following entry, to wit:

90 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—43-C-10—43-C-276)

ORDER.

On motion of Carter H. Harrison, defendant in the above entitled cases, by his attorney, J. Albert Woll, United States Attorney,

It Is Hereby Ordered, Adjudged, And Decreed that the above entitled cases be consolidated for trial under the consolidated number 43-C-10.

Enter:

Campbell.

Dated at Chicago, Illinois, this 1st day of February, 1944.

145 And afterwards on, to wit, the 12th day of February, 1945 there was filed in the Clerk's office of said Court a certain Transcript Of Testimony In Two (2) Volumes in words and figures following, to wit:

148 IN THE DISTRICT COURT OF THE UNITED STATES

(Caption—43-C-10)

Be It Remembered, That Heretofore. On To-Wit on the 1st day of February, A. D. 1944, the same being one of the judicial days of the United States District Court, this cause came on for hearing before the Honorable William J. Campbell, one of the judges of said court, without a jury, and thereupon the following proceedings were had.

Counsel Present:

Messrs. Wilbur E. Benoy, and George T. Christie, Appeared for the Plaintiff.

Mr. J. Albert Woll, United States District Attorney for the Northern District of Illinois, Eastern Division, at Chicago, by

Mr. John D. Stephan; Assistant United States District Attorney, and

149 Mr. Homer R. Miller, Special Assistant to Attorney General of the United States of America, Appeared for the Defendant.

The Court: You may proceed.

Mr. Benoy: If your Honor please, I would anticipate a rather full statement of the case might enable your Honor to understand the case better.

The Court: We already have had a trial conference on this matter and unless there is something specific you want to call my attention to I don't think you need to waste time with any further statements. I have reviewed my notes on the pre-trial conference and I have the issues clearly in mind. The question here, as I recall it if the Social Security tax paid under protest.

Mr. Benoy: That is right.

The Court: And the tax was paid with respect to certain owner operators and the question to determine is whether

they were owner operators or employees, is that the situation?

Mr. Benoy: That is right.

The Court: Is that the way you understand it?

Mr. Miller: Yes.

The Court: Let us proceed.

150 Mr. Benoy: Our point is we are not employers. We have no payroll.

The Court: Yes, that matter was discussed at the pre-conference, and I have reviewed my notes and I will hear your evidence. Call your first witness.

Mr. Benoy: You may take the stand, Mr. Bossert.

GEORGE E. BOSSERT, called as a witness on behalf of the Plaintiff, after having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Benoy.

Q. Your name, please.

A. George E. Bossert.

Q. What is your business and place of residence?

A. 1547 East 33rd Street, Minneapolis, Minnesota.

The Court: Minneapolis, Minnesota?

A. Minneapolis, Minnesota, yes.

Mr. Benoy: Q. Are you now connected with the Greyvan Lines?

A. No, sir.

Q. What company are you now connected with?

A. North American Van Lines.

Q. Were you connected with the Greyvan Lines, Inc.?

151 A. Yes, sir.

Q. On what date did you sever that connection?

A. October 27, 1943.

Q. Prior to that time how long was your connection with the Greyvan Lines?

A. I started to work in January, some time in 1941.

Q. Did you work some time before you signed a contract?

A. Yes, sir.

Q. And what were you doing during that interim of time?

A. I was travelling; moving furniture as a student.

Q. What do you mean by "student"?

A. In order to operate long distance moving van men have to know certain things.

Mr. Stephan: Your Honor, I am going to object to what he was doing, not what his conclusions are, but what was he necessarily doing.

The Court: Well, we will get it out as quick as possible. We have no jury here. Tell me what you did as a student.

A. I was learning the fundamentals of furniture moving and the proper procedure to take in handling the various papers necessary for the shipments.

152 The Court: Proceed counsel.

Mr. Benoy: Q. Did that include loading and unloading?

A. Yes, sir.

Q. What allowances were you made during the time you were a student?

A. We were paid $3.00 a day subsistence during that period.

Mr. Benoy: I might say, your Honor, I should have said before, these men I am now offering are truck men themselves whom I am offering to establish the way—

The Court: I understand. Go ahead.

Mr. Benoy: Q. Now I hand you what is labeled as Greyvan Lines, Truckmen's Agreement and ask you whether or not your signature is attached to that document?

A. Yes, sir.

Q. And when did you sign that document?

A. On February 3, 1941.

Q. And now does that date show your connection with the Greyvan Lines on the contract?

A. Yes, sir.

The Court: You call that a Truckmen's Agreement?

Mr. Benoy: It is designated as Greyvan Lines Truckmen's Agreement.

The Court: Truckmen's Agreement.

153 Mr. Benoy: I have a copy here for your Honor.

The Court: No. I just want the right terminology. All right, go ahead.

Mr. Benoy: I don't care to offer this. I am going to offer others, follow it through the whole set of papers.

Mr. Stephan: Why don't you offer them as you go along so that you can substitute photostatic copies later for the record.

The Court: Well, you go ahead.

Mr. Benoy: Thank you very much.

Q. Now, after you signed this agreement tell the Court what was done in order to carry out the agreement.

A. Before I had signed the agreement I had made arrangements to purchase my own unit and when I signed the agreement I went to Minneapolis, Minnesota, to get the required equipment and I came back to Chicago to start work.

Q. What did you do in connection with it?

A. I purchased the tractor and trailer with pads and the equipment to handle it.

Q. How did you use the tractor, with the trailer?

A. It was used exclusively under the contract for the moving of furniture.

Q. Now, how did you get notification that a load 154 of furniture was ready for you?

A. The Greyvan Lines maintained offices in the principal cities in thirty-eight eastern states and these offices, sales offices and agents as you might say for the company and they give you papers on each shipment, but in those towns we get the papers directly from the office and if we are in towns where there are no offices we are advised by the Western Union.

Q. Now, do these papers show you where the load is to go?

A. Yes, sir.

Q. Its destination, in other words?

A. Yes, sir.

Q. And does it show what the load is?

A. Yes, sir.

Q. Does it show you where it is to go?

A. Yes, sir.

Q. Does it show you whether or not it is a C.O.D. shipment or a shipment in the ordinary way?

A. Yes, sir.

Q. And does it show you whether or not you are obliged to collect the freight tariff, or whether you may extend credit for it?

A. Yes, sir, it does.

Q. Now, where you collect the C.O.D. shipments 155 and the freight, I am directing my questions to the time involved from 1937 to the first three months of 1942.

A. Well, I was responsible for it until I turned it over to the Western Union or had a cashier's check made out and mailed it into the company.

Q. And how soon did you make those remittances?

A. As soon as possible.

Q. Now, what did you do in order to deliver the load?

A. Well, the loads are varying in destination. We usually try to conform to the shipper's desires in the time of arrival on account of the distance, if it was more convenient for them to take an extra day, why, we usually took our time and delivered it a little later than we would ordinarily.

Q. Now, when you got to the destination, what did you do with the actual delivery of the goods?

A. Well, I hired my own help, located the address, contacted the shippers, unloaded the goods and if it was a collect job I collected before I unloaded and if there was a bill, first I would sign the freight bills necessary to sign.

Q. Before you picked up the goods, did you make an inventory of them?

156 A. Yes, sir.

Q. What did you do with that inventory when you delivered the goods?

A. Well, upon receipt of the goods we would note the condition of each article, whether it was marred, scratched or in bad order, just generally abused, had the shipper sign it, if that was true of the furniture at that time, and upon delivering it we checked off the items, off the inventory sheet and noted if there was any damage. If there was no damage, why the shipper would sign the inventory sheet that everything had been received in good order.

The Court: The shipper?

A. Yes, sir.

Mr. Benoy: There are shippers at both ends, you see.

The Court: Oh.

Mr. Benoy: Q. You shipped the goods to the shipper himself at destination, do you?

A. Yes, sir.

Q. In other words moving them from city to city, household goods?

A. Yes, sir, exclusively.

Q. That is what you were chiefly concerned with?

A. Yes, sir.

157 Q. Now, suppose those household goods were marred, scratched, whose responsibility would that be?

A. Any damage during the transportation of the furniture I was perfectly responsible for it. If I could make arrangements with the shipper to pay the damages, there,

I would pay for them. If I couldn't do something necessary, we would have to go through the office. If we didn't know what the damages were, the company would settle and then pay the damages and charge it to my account.

Q. Now, with respect to your own compensation for moving the load, how was that taken care of?

A. Well, the shipments were divided on a 50-50 basis. I was to get 50 per cent of the drayage and certain other compensation for packing and a Porto robe service. There were several other articles, if the charges on the sheet or papers didn't carry a complete bill, all the things that had to be done and they would go into the office and they would credit it to my account and at the end of the month I would get a statement complete with everything on it, what I hauled and what damages had been taken out and everything was evened up and I got the balance.

Q. How was that paid to you then?

A. By check.

158 Q. Throughout the month were you entitled to certain advances as against your account?

A. Yes, sir, on each form we were allowed, what is commonly called, "an advance check." I was to defray all current expenses, loading and unloading for our personal requirements.

Q. Was it possible for you to buy any supplies through the Greyvan Lines?

A. Yes, sir, we took advantage of the company's fleet discounts. We used to buy a lot of necessary equipment and things for our trucks through the company.

Q. Did you pay for that?

A. Not in cash. It was charged to our account and paid for and eventually at the end of the month it was paid for.

Q. What did you do about gasoline and credit cards?

A. Gasoline was almost invariably purchased on credit cards. The purchase price was charged to our account.

Q. Do you mean by that you purchased it from the Greyvan Lines itself?

A. No, sir, we had—I think there was 21 different brands of gasoline we could use, had charge accounts and could use 21 different kinds.

159 Q. Is it a fact that Greyvan Lines had secured for you credit lines for that many companies?

A. Yes, sir.

Q. While you had the card itself, you could present those cards and have the gasoline charged?

A. That is right.

Q. And that they were collected at the end of the month and charged back to your account?

A. Yes, sir.

Q. Now, what was the occasion for those credit cards?

A. Well, sometimes we would be gone two or three months at a stretch without getting in contact, direct contact with the home office. We don't want to carry a lot of cash with us. We would be an invitation for every thug in the country to hold us up.

Q. That is the reason a credit card was arranged, is that correct?

A. Yes, sir.

Q. Now, what was done with reference to your insurance, take liability and property damage on the equipment itself?

A. My insurance was carried under a blanket policy by the company, and at the end of the month I was 160 charged. There was a small turn-over and each month there was a certain percentage taken off of my statement.

Q. What did you do with reference to collision, fire and theft insurance on your own equipment?

A. That was at the same point checked. I found that using the fleet policy, that you see the paper for many times, that is an individual policy, it was much cheaper and I just put it through then under the blanket policy.

Q. And how was that paid for?

A. That was paid in the same manner as the other.

Q. In other words charged against your account at the end of the month?

A. Yes, sir, that is right.

Q. Did you have the option of providing your own collision, fire and theft insurance?

A. Yes, sir.

Q. Now, these collections that you would make, how much would they run to at times?

A. Well, it depended on the size of the load, the destination of the load. It varied anywhere from $25.00 up to $1500.00.

Q. And that you mean was the charge to the shipper for the transportation?

161 A. Yes, sir.

Q. And you had to collect that, did you?

A. Yes, sir. It was a C. O. D. job.

Q. Well, a C. O. D. job, was this a straight tariff or which was it?

A. Well, you see a C. O. D. job is a *billed job*, a billed job. You would have it billed and payment by some companies for which the shipper asked the C. O. D. job, usually was just private firms.

Q. What is meant you collected freight charges on delivery?

A. Yes, sir.

Q. Wouldn't mean it is collected on as to the value of the goods then?

A. No, sir.

Q. That was another thing?

A. Yes, sir.

Q. Your share of the transportation charges would average how much?

A. Fifty per cent.

Q. Well, I mean how much would it run on an average per month?

A. Well, as to all expenses, my equipment expenses, my help, my own expenses vary from month to month, but I think on an average it would be from four to

162 five hundred dollars a month.

Q. Now that would be the net profit to you?

A. Yes, sir, that is my labor.

Q. Was there any advantage in making an arrangement on contracts as above and beyond an employment on a wage?

A. Definitely, there was.

Q. In other words you netted much more than you would had you been on a strict employment basis?

A. Yes, sir.

Q. What was the fact about the possibility of yourself driving your own equipment, you could save expenses on it?

A. Well, I had to pay for it, naturally I wasn't going to take it out and run it and wreck it. I took good care of it, watched it, and turned the corners here and there,

where I could save a dollar here and a dollar there, whereas if a man was driving for somebody else he hasn't the personal interest in it.

Q. Assuming you are out with a load of household goods from New York City to West Virginia, you were going over that part of Pennylvania where the turnpike is, could you use that turnpike if you wanted to?

163 A. That was entirely up to me.

Q. And if you use it, then what?

A. I pay $7.50 toll on it.

Q. Do you have a choice for the different routes to go on?

A. Oh, yes, sir.

Q. You had the chief dispatcher at the home office, did you not?

A. Yes, sir.

Q. What was your occasion to contact him?

A. Well, something would come up and I was in a hurry for something like that I would call him on the phone, if it was pertaining to business because I felt it was company's business and I would reverse the charges to him, and if it was my own personal business I would pay for them myself.

Q. Do you wear uniforms, I see your uniform?

A. Yes, sir.

Q. Your own uniforms?

A. Yes, sir.

Q. Were you required by the organization to wear uniforms?

A. No, sir.

Q. Was this your own choice?

A. Yes, sir.

164 Q. You said a while ago you were away from Chicago as much as a month and a half, did you not?

A. Well sometimes would be longer than that, two or three months, sometimes.

Q. How many miles would you cover in that time?

A. Well, I think it is safe to say we travelled twelve thousand miles a month.

Q. Was there anybody on the road at all supervising your activities?

A. No, sir.

Q. They were all regulated by your own personal conduct?

A. Yes, sir.

Q. You have seen this manual, have you not?

A. Yes, sir.

Q. When did you first see it?

A. Before I went on the road with the service contact in the Chicago office I came down to Minneapolis.

Q. Now while you were a student before you signed up this contract, what use did you make of that?

A. Well, I read it through. There were several things in it which helped any one doing work a little easier, more as a reference book than anything else.

Q. Now, after you became a truckman and you had
165 signed this contract, were you ever instructed by the company to follow those rules?

A. No, sir.

Q. You used your own judgment as to whether you would follow them or not?

A. Yes, sir.

Q. I am just wondering whether you carried the book with you on the trips?

A. I usually had it, but half the time I didn't know where it was.

Q. Did you use or do you use, what is known as a sleeper's cab?

A. Yes, sir.

Q. That was a cab in which you slept, provided with a bunk for you to sleep in, wasn't it?

A. Yes, sir.

Q. Were you required to use the sleeper's cab?

A. No, sir.

Q. Did you use it for your own reason?

A. Well, I slept in it most of the time. I had something on, I felt my own responsibility and I had them in my possession and I didn't want anything to happen so I usually stayed with the load when I had a load on.

Q. Now you, of course, came in contact with house-
166 wives?

A. Yes, sir.

Q. Was that most of your work?

A. Yes, sir.

Q. In other words you had to do the loading and handling of the goods to satisfy her?

A. That is right.

Mr. Benoy: I think you may cross examine.

Mr. Miller: With respect to the offer of this stipulation in evidence.

Mr. Benoy: Yes, I was going to do it later.

The Court: There has been a stipulation entered into in pursuance to the pre-trial conference?

Mr. Stephan: Yes, your Honor.

The Court: Been filed, has it?

Mr. Stephan: We will file it now, your Honor.

The Court: Let the same be filed and the record will be considered by the Court as evidence in this case. You may proceed.

Cross-Examination by Mr. Stephan.

Q. Mr. Bossert, you state you commenced to work for the Greyvan Lines Company about the 3rd of January, 1941. What was your line of work before that time?

167 A. I operated five trucks on my own in Minneapolis under contract.

Q. For how long?

A. About twelve years.

Q. And perhaps, or rather previous to that time had you been engaged in the trucking business?

A. Yes, sir.

Q. When you applied for work with the Greyvan Lines people did you fill out an application of some sort?

A. I wrote in in reference to putting a unit on, yes, sir.

Q. Did you state to the Greyvan people in your application that you had had considerable experience, about twelve years of trucking experience?

A. Yes, sir.

Q. And they required you, however, to make your student training course that you spoke of, is that so?

A. Yes, sir.

Q. Did you have any conversation with the Greyvan Lines people about your experience as to whether it was necessary for you to take this student training course?

A. Yes, I did.

Q. And did they tell you it was still necessary for

168 you to take it?

A. Yes, sir, they said in order to handle the job to my advantage that it would be advisable to take it.

Q. On one of their trucks?

A. Yes, sir.

Q. Now, when you first commenced working for the Greyvan Lines, it is true, is it not, that you leased or rented a trailer from the Greyvan Lines people?

A. Yes, sir.

Q. And who did you purchase that trailer from, do you recall?

A. The trailer I bought right from the Greyvan Lines Company.

Q. Did you pay the Greyvan Lines Company for it?

A. Yes, sir.

Q. Was it financed through the Greyvan Lines Company?

A. I don't believe there was any financing on it, because it wasn't a new trailer. It was an old trailer.

Q. How did you pay for it, each month a certain amount deducted from your check?

A. Yes, sir.

Q. Was there any option in that contract to pur-
169 chase this trailer, that is the Greyvan Lines would have the first option to purchase that trailer?

A. Yes, sir, there was.

Q. Do you recall who paid for the painting of that trailer in the first instance?

A. It was the Greyvan Lines that painted it. It had to be the Greyvan Lines' colors.

Q. When you purchased it from them it was painted?

A. Yes, sir.

Q. Was there a regulation or rule of the company you knew that it required the drivers to make a cash deposit of $250.00?

A. We did make a deposit of $250.00, a cash deposit to cover any damage that we might do in the event we left the company.

Q. Did you make such a deposit in cash?

A. Yes, sir.

Q. Did you make it in cash?

A. No, sir. I didn't, it was taken out, $25.00 a month.

Q. Were you accepted by the Greyvan Lines for employment the first time you applied to them?

A. Yes, sir, after a period of correspondence which took about three weeks.

179 Q. Well, isn't it true that after the first application a physical examination was required, and there was some question as to your weight?

A. Well, that was in order to comply with the Interstate Commerce Commission regulation.

Q. Were you underweight when you first applied?

A. Yes, sir, I still am.

Q. Did they subsequently or later put you to work despite that fact?

A. Yes, sir.

Q. Did you use any other equipment of any nature belonging to the Greyvan Lines other than the trailer which you leased from them when you first started working for them?

A. No, sir, the trailer and company's equipment is all I leased from them.

Q. How about clothes cabinets and things of that nature?

A. They are part of the equipment of the van.

Q. And you stated, did you not, that equipment and things of that nature might be purchased through the Greyvan Lines and charged to your account?

A. Yes, sir.

Q. When you say "charged to your account" as a matter of fact you don't know whether that is so, do

171 you, as a matter of fact, whether it actually occurred, a certain amount was deducted from your check each month?

A. No, sir, it was charged to my account, because I have itemized statements at the end of each month. Each month I have checked them, each item.

Q. You never actually paid the Greyvan Lines any money? Previous to that statement, money you owed them?

A. No, I can't pay cash for them at the start. I wanted to check it over, I wanted a set of spark plugs and I have got to pay cash for them.

Q. No, no, you never actually paid any money to Greyvan Lines itself for any purchases you might have made under their name?

A. I don't recall any specific instance of it, no. I don't.

Q. Did the company furnish you with a list of the weighing stations throughout the country?

A. No book, but with a list, a kind of list.

Q. Were you instructed to go to a particular weighing station in that locality?

A. No.

Q. Well, was that list of weighing stations a list that was set out by the Interstate Commerce?

A. I believe that is a little blue book.

172 Q You could use any other station you wanted to?

A. Yes, sir, because it provided if we were satisfied with the weighmaster.

Q. Now you spoke of some twenty or twenty one cards which you carried for the purchase of gasoline and oil. To whom were those cards made out to?

A. They were made out to the Greyvan Lines, Incorporated, but on the face of them they were stamped delivered to the unit, Mr. So and So, whatever the unit might have.

Q. Well, now, as a matter of fact, these cards simply said "Greyvan Lines" and gave the address of the Greyvan Lines and they had a number on them, didn't they?

A. Yes, sir.

Q. Corresponding to the number on your truck?

A. That is right.

Q. There was no such caption "delivered" or anything like that?

A. Yes, sir, delivered to me, the number happened to be 286.

Q. During the time that you worked for the Greyvan Lines there was a lettering on the side of your truck?

A. Yes, sir, the necessary permit for the various 173 states.

Q. As indicated by the lettering and the weight and capacity of that truck?

A. Yes, sir.

Q. Now, was that lettering put on at the time you went to work for the Greyvan Lines?

A. Yes, sir.

Q. Did it have your name or address lettered on any part of the truck or trailer?

A. No, but I had Mac on the tractor.

Q. That is a name.

A. That is my nickname for the truck, yes, sir.

Q. Do you know of any state law requiring the lettering of the owner's name and address?

A. No, sir.

Q. On a truck?

A. No, sir.

Q. Did you have any conversation or instructions from the Greyvan Lines?

A. No, sir.

Q. Now, as to your shipping instructions you spoke about, I think you testified here were given to you, or wired to you from some of the officials of the Greyvan Lines, from whom did those instructions come?

174 A. Usually they came from our dispatcher.

Q. And the dispatcher handled that all the time you were an employee there, when you were employed there?

A. Yes, sir, except for one brief period he was on a vacation.

Q. Now those instructions specified the date on which you were to pick up the order, the date on which it was to be delivered, did they not?

A. Sometimes the delivery date would be on it. It was usually left to the shipper when they wanted their furniture, if it was convenient on the dates mentioned.

Q. Well, the date of the pickup was on there, wasn't it?

A. Yes, sir.

Q. Well, it is fair to state then you could not pick up the load of furniture unless you received instructions from Mr. Prante to pick it up on such date; that is correct, is it not?

A. No, sir, it isn't. I have picked up loads two or three days before they were scheduled to be moved.

Q. Well, how do you know about these loads?

A. We got papers in New York City probably to bring them down here.

Q. There were some prior instructions from somebody?

175 A. There was information that the load was there, yes, sir.

Q. Let me put it this way: You had no authority to pick up the shipment without instructions from some official of the Greyvan Lines, did you?

A. No.

Q. Would it be possible to distinguish the tractor and and trailer?

A. Yes, sir.

Q. How do you do that?

A. My unit had 286 on the cab and 286 on the trailer. The company owned had one number for the trailer and one number for the tractor.

Q. Other than that number there is no other way to distinguish the owner operated unit from the company owned?

A. Well, generally in appearance the owner operated equipment usually would be in better shape.

Q. Would the casual observer be able to know?

A. No, I don't believe they would be.

Q. Now, as a matter of fact all papers which you received in relation to shipments were made out in Grayvan Lines' name, were they not?

A. Yes, sir.

Q. Nothing on those papers to indicate who were
176 the owners or operators of that unit, was there?

A. No, sir.

Q. Were you permitted to solicit any new business for the company?

A. Yes, sir.

Q. Were you paid commission for that?

A. Yes, sir, although I never turned one in myself.

Q. Could you solicit new business and load it on your truck and haul it to its destination without instructions from the company?

A. No, sir.

Q. Now you spoke of damage to a shipment and your responsibility. Isn't it a fact that regulations of the Interstate Commerce Commission provide for a specific amount for allowance for damages, I believe about 30 cents a hundred weight?

A. That is the released value of the shipment.

Q. To the shipper?

A. The released value that relates to the goods, not the value of the bond, but 30 cents unless it is otherwise stipulated.

Q. Well, that would seem you would only be liable for 30 cents a hundred weight unless some additional insurance was placed on that load?

A. Yes, sir.

177 Q. Did you ever personally pay any shipper for any damage you done?

A. Yes, sir.

Q. All your help you employed, did you have some times a helper with you on the truck?

A. No, sir.

Q. Have you employed one for the period when you needed one?

A. Yes, sir.

Q. Did the company inquire or require you, rather, to employ union helpers?

A. It wasn't the company's requirement, it was the union requirement.

Q. But you had to employ union help?

A. Yes, we had to use union help, that is, whenever available; sometimes we would be in a small town and they wouldn't know what a union was and you couldn't get any union help.

Q. You were required by your agreement with the union?

A. Yes, sir, I don't know whether it was the company's requirement; we all had to belong to it in order to unload in certain towns.

Q. Your expense of operating the truck and paying your helpers, is it true you had to make a report to the 178 company at certain intervals?

A. Only in the event that some of the expenses incurred were part of the company's expenses, such as tariffs necessary to travel through Missouri or something of that nature they paid, it is true.

Q. Don't you have to make a report then as to the amount you paid your helper?

A. No, sir.

Q. Your expenses for gas and oil?

A. No, sir.

Q. You made no report at any time while you were in their employ; now, you stated that you were not required to wear a uniform, that is a Greyvan Lines' uniform?

A. Yes, sir.

Q. Well, however, you wore it, did you not?

A. Yes, sir.

Q. Do you remember where you purchased that?

A. Greenberg's, 2540 South State Street, no, 540 South State Street.

Q. Who sent you down there?

A. I believe some of the drivers said I could get it down there.

Q. Did you pay for that uniform yourself?

A. Yes, sir.

179 Q. You didn't have it charged to the company?

A. No, sir, I didn't.

Q. Those uniforms were made up in stock sizes?

A. Some of them are and sometimes I had them specially made.

Q. Now in connection with the insurance you spoke about, it is true, is it not, you carried liability and property damage, fire and theft on your unit, did you not?

A. Yes, sir.

Q. Did you pay for that yourself?

A. It was taken from my check.

Q. And paid for by the company?

A. Yes, sir.

Q. Wasn't it a cargo insurance that was carried on your unit also?

A. Yes, sir.

Q. You paid for that insurance?

A. What insurance?

Q. Now, you paid for the portion of the cargo insurance?

A. Yes, that I have never been able to straighten out in my mind myself, but I believe that I did.

Q. Do you recollect anything in the contract that you had with the Greyvan Lines as to that provision?

180 A. No, sir, I don't.

Q. Is this a copy of the Truckmen's Manual that was issued to you?

A. Yes, sir.

Q. During your training course you took—

The Court: You better have that marked with a number for the record.

Mr. Stephan: Mark this Government's Exhibit 1 for identification.

(Thereupon the document was marked as requested, Government's Exhibit 1 for identification.)

The Court: Let the record show the witness looked at Government's Exhibit 1 in answer to the previous question.

Mr. Stephan: Q. Do you remember reading that provision in your book pertaining to uniforms?

A. No, sir, I don't remember that.

Q. Do you ever recall reading section 10 on page 2?

A. I believe I did read it; yes.

Mr. Benoy. May I have an exception to any question along this line? I will develop it later on a question of law.

The Court: If you have an objection, voice it on the question and I will rule on it.

181 Mr. Benoy: All right, thank you, go ahead.

Mr. Stephan: Q. These uniforms, were they all of a uniform type in character?

A. Yes, sir.

Q. Do you recall what color trousers they wore?

A. Most of them got a light bluish grey color.

Q. What color was the blouse?

A. The same color.

Q. Well, isn't it true that all the men purchased the uniforms and wore black ties?

A. No, sir, it isn't.

Q. After reading this paragraph 10 which I showed you, doesn't that indicate to you that the drivers were required to purchase the uniforms?

A. No, I asked about them when I started. I wasn't overburdened with cash after having paid for my equipment and I didn't want to spend too much money for work clothes. Previously I had been engaged in the brick business and I wore overalls and you can't deliver Mrs. Astor's furniture in overalls.

Q. Did you buy a complete uniform, belt and shoes?

A. No, sir, not the belt or the shoes.

Mr. Stephan: I wish to introduce this as Government's Exhibit 1 in evidence.

The Court: You better wait until the Government's
182 case. This is the Plaintiff's case.

Mr. Stephan: Well, I want to introduce this on cross examination.

The Court: Have they changed the laws for the introduction of exhibits before your case comes on?

Mr. Stephan: Well, I think I can.

The Court: You can't in this Court. I don't know what the others are doing. I never heard of that before. It has been identified. When your case comes on I will let you introduce it with your evidence.

Mr. Stephan: That will be satisfactory.

Q. Are you familiar with the bonus provisions of the contract you had with Greyvan Lines?

A. Yes, sir.

Q. It is true, is it not, the bonus provisions provide that you get as high as three per cent bonus, did it not?

A. Yes, sir.

Q. That consisted of one-half of one per cent for mechanical and physical maintenance; one per cent for satisfactory service performed and one per cent for personal appearance and mental attitude?

A. Yes, sir.

Q. A total of one-half of one per cent if you earned the two and a half per cent for three consecutive
183 months?

A. That is right.

The Court: Q. Is that in the contract, Mr. Stephan?

Mr. Stephan: Yes, your Honor.

Q. With reference to the first provision as to mechanical and physical maintenance, did the company inspect the mechanical or physical condition of your truck or trailer by intervals?

A. No, sir.

Q. Did they at any time?

A. I believe one man did walk through and inspect the truck one day just shortly before I left Greyvan Lines and asked me if I had all the equipment necessary; outside of that there was never any inspection made.

Q. At that time did he inspect both the tractor and the trailer?

A. No, sir; just went through the trailer. I think that was more because of the fact he seen I had my own equipment.

Q. Was there any inspectors on the road points, at the time of loading to check the total points as to the second part of the bonus for the service performed?

A. No, sir. Occasionally a man would request, or the shipper would come out and see that the things were handled to their satisfaction.

184 Q. Was there any inspection made as to your personal appearance?

A. No, sir.

Q. Did you earn this three per cent bonus at any time?

A. I never lost it.

Q. Were you required to buy certain plates at the time, state license plates at the time you went to work?

A. Yes, the state law required you to buy a vehicle state license. In Minnesota you have to put the license on it before you can take it out.

Q. What state did you buy your plates in?

A. In Minnesota.

Q. Can the company furnish the plates in other states in which you were obliged to travel through?

A. Yes, sir.

Q. You didn't sign any application for those plates, did you?

A. Yes, sir.

Q. Weren't those plates taken out by the Greyvan Lines?

A. Yes, sir, I had to sign an application for them I would judge a thousand miles before we came to the person that could sign for them. I signed for them as
185 agent for the Greyvan Lines.

Q. Well, as a matter of fact applications were made for them at the Greyvan Lines office here in Chicago, were they not?

A. No, sir, a lot of plates, we made application for ours right in the state.

Q. There were some plates furnished you by the Greyvan Lines?

A. Yes, sir, some of them.

Q. You didn't sign any applications for those plates, did you?

A. No, sir.

Q. Now going back a moment to your helpers you employed, did you make out any reports for paying the Social Security tax on those helpers?

A. Yes, sir.

Q. Now, Mr. Bossert, you devoted your full time to this job, did you not?

A. Yes, sir.

Q. And under the terms of your contract with the Greyvan Lines you were required to work for them and no one else?

A. No, sir. I could take time off at any time I so desired and do whatever I felt I wanted to do at the time.
186 Q. Did you ever do that?

A. Yes, sir, I have.

Q. Could you use that tractor?

A. No, sir, I couldn't use the trailer when I was leasing the trailer from them, but I could use the tractor.

Q. That tractor and trailer you could use for no other work than the Greyvan Lines?

A. No, sir.

Mr. Stephan: That is all.

The Court: Any re-direct examination.

Re-Direct Examination by Mr. Benoy.

Q. You were asked about the release of the shipment could you make any claim for marred or scratched furniture?

A. No, sir, there was none made that I know of.

Q. That does not come under that?

A. No, sir.

Q. That is one of the other districts, is that right?

A. That is right.

Q. The registration plates you bought in Minnesota you paid for from your own pocket, did you not?

187 A. Yes, sir.

Q. And the company furnished you the plates that you required to travel through other states?

A. Yes, sir.

Q. But you provided your own registration plates, that is, state registration?

A. Yes, sir.

Q. Now you said you devoted full time, except such time as you wanted to take off, did you have any time to devote to anything else?

A. Very seldom, unless I took a vacation or did a little other work for recreation.

Q. How much of an investment did you put in this business?

A. My tractor cost me $3,076.41, and I believe the trailer about $1800.00.

Q. And all of your help that you had, either your own help on your own equipment was help furnished for loading and unloading the furniture, and you hired them, paid them and fired them, didn't you?

A. Yes, sir.

Q. And you were responsible for the loss of any revenue collected, were you not, until it come into the company's hands?

A. Yes, sir.

188 Q. That was true with reference to your responsibility for damage to the shipment, was it not?

A. Yes, sir.

Mr. Benoy: That is all.

The Court: I would like to ask a few questions:

Q. Now you talked on cross examination mostly with reference to this trailer, that is what you were asked about?

A. Yes, sir.

Q. I understand you first leased the trailer from the Greyvan Lines and later made arrangements with them by paying so much a month?

A. Yes, sir.

Q. How about the tractor, whose was that?

A. That tractor?

Q. That you leased?

A. The tractor, I purchased it in Minneapolis from the International Harvester Company.

Q. You went up there after you finished your work as a student and used their equipment?

A. Yes, sir.

Q. You bought a tractor from the International Harvester Company?

A. Yes, sir.

Q. Yourself?

A. Yes, sir.

189 Q. And paid for it yourself?

A. Yes, sir.

Q. The Greyvan Lines did not do that?

A. Not a thing.

Q. You owned the tractor entirely?

A. Yes, sir.

Q. Now, as to the tractor and the trailer, did the State of Minnesota or any other state issue a certificate of ownership on that like they do on pleasure automobiles?

A. The State of Minnesota issued a little card; it is a certificate of title.

Q. Yes, a certificate of title, yes; what does it say?

A. The make of the truck and my name under it.

The Court: I beg your pardon?

A. The make of the truck with my name on the certificate.

Q. For the tractor?

A. Yes, sir.

Q. How about the trailer, is one issued for that or not?

A. When I first started I pulled the company's trailer

and at that time the certificate of title was in their name, but when I purchased it it was in my name.

190 Q. What happened to your equipment when you left the company? I understand you recently left the Greyvan Lines.

A. I sold it.

Q. And when was it you left, in October, 1943?

A. That is right.

Q. What did you do with the equipment, I mean, when you left the company?

A. I sold the equipment to another driver.

Q. You sold the equipment to another driver?

A. Yes, sir. He wrecked his unit and he wanted a new one.

Q. Who was the driver you sold it to?

A. Bernard Hannenberger.

Q. Trailer and tractor?

A. Yes, sir.

Q. Bernard what?

A. Hannenberger.

Q. How do you spell that?

A. H-a-n-n-e-n-b-e-r-g-e-r.

Q. Is Hannenberger still working for the Greyvan Lines?

A. I don't know, your Honor.

Q. He was at the time a driver for the Greyvan Lines?

A. Yes, sir.

191 Q. Now this contract you had with the Greyvan Company, as I understand the way you explain it, they check the rates for the drayage on which the shipper had to pay for this?

A. Yes, sir, set up by the Interstate Commerce Commission.

Q. Tariffs set up by the Interstate Commerce Commission?

A. Yes, sir.

Q. Then you got one half of that and they got the other half, is that right?

A. Yes, sir.

Q. Now, then, with your half of it you bought the tractor and trailer and furnished your own service and furnished the service of the helper?

A. Yes, sir.

Q. And maintained the tractor and trailer mechanically, and paid for the license on it?

A. Yes, sir.

Q. That is the original state licenses?

A. That is right.

Q. And paid for the gasoline?

A. Yes, sir.

Q. And the other cost of maintenance?

A. Yes, sir.

192 What does the company do for its 50 per cent?

A. They maintain whatever officials were necessary, well, I don't know what else to take up the business.

Q. They solicited the business?

A. They solicited the business, yes, sir.

Q. Their salesmen and office force, of course, were necessary and incident to that?

A. Yes, sir, they furnished the office force.

Q. In so far as the shipment is concerned they bore no other expenses for that?

A. Well, except the expenses of the license plates and the permits necessary.

Q. That you testified to the other day in response to questions yourself?

A. Yes, sir.

Q. The cost of transportation was yours.

A. Yes, sir.

Q. And for that you got one half of the drayage fee?

A. Yes, sir.

Q. They got the other half of the drayage fee for soliciting the business?

A. That is right.

Q. That was substantially the contract?

A. Yes, sir.

193 The Court: Very well, that is all I have to ask. You may step down.

(Witness excused.)

MAX R. PARSLEY, called as a witness by the Plaintiff, having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Benoy:

Q. Your name, please?
A. Max R. Parsley.
The Court: How do you spell your last name?
A. P-a-r-s-l-e-y-.
Q. P-a-r-s-l-e-y?
A. Yes, sir.
Mr. Benoy: Q. Where do you live, Mr. Parsley?
A. 1518 Draper Street, Indianapolis, Indiana.
Q. How long have you had the connection with the Greyvan Lines?
A. Since September, 1938, I believe September 1st is the correct date.
Q. Had you been in the trucking business before that time?
A. Yes. sir.
The Court: Let me interrupt. Are you bringing 194 out some additional facts?
Mr. Benoy: Maybe a little evidence. I want to put in with this witness with respect to the instructions and the papers, *et cetera.*
The Court: Can you not stipulate so that we don't have to waste time here. You know it is not necessary when the government was willing to stipulate. They could possibly put on four or five witnesses to corroborate the testimony the same as the other drivers. Can't you save time?
Mr. Miller: We have no objection, your Honor, to doing that.
The Court: I don't see any sense putting on four or five others to repeat what Mr. Bossert's testimony has been. I think it has been very fully covered. What is the purpose of it?
Mr. Benoy: They are the same, your Honor.
The Court: How many have you here ready to testify?
Mr. Benoy: I have five here.
The Court: Will the government agree that if the witnesses were put on it would be cumulative in so far as the general purport?

Mr. Miller: Your Honor, we have one witness, one driver we desire to use ourselves, the testimony of that driver which is considerably at variance with the testimony
195 of the witness.

The Court: This particular witness.

Mr. Miller: The witness who has just testified.

The Court: The five will testify to the same thing if they are asked the same questions.

Mr. Miller: I just want to call your attention to that.

The Court: Well, I would anticipate if your witnesses would testify a little differently, at least the plaintiff's wouldn't bother me, but if this is cumulative let the record show you have five witnesses who will testify substantially the same as Mr. Bossert and let the record show that the Court does not desire to hear any cumulative testimony. If you have anything else other than that to cover by their testimony, all right. If you want to cover it by this witness, proceed, but don't repeat the testimony.

Mr. Benoy: I am going to offer the examples of showing the routine in which these shipments are handled in the main.

The Court: You mean more detailed than what Mr. Bossert testified to?

Mr. Benoy: I am going to offer this line of papers.

The Court: Of the actual shipments?

Mr. Benoy: Yes, of the actual shipments as they
196 are handled.

The Court: Very well, proceed. These shipments by this witness, made by this witness.

Mr. Benoy: They have particular reference. I mean, all of them will be the same as far as that is concerned.

The Court: Very well.

Mr. Benoy: If your Honor please, I am offering Plaintiff's Exhibit 1.

The Court: You better use letters. They used numbers, make it A.

Mr. Benoy: Plaintiff's Exhibit A which is the Truckmen's Agreement.

The Court: Any objection by the government?

Mr. Miller: I think I want to see it. All right.

Mr. Benoy: I shall leave a substitute, your Honor, a copy for the original.

The Court: All right, what is this?

Mr. Benoy: That is just the same; they are identical.

The Court: Very well.

Mr. Benoy: There are two or three hundred of them identical.

The Court: There being no objection they may be received in evidence with leave given to the Plaintiff to
197 substitute photostatic copies thereof. Let this be received in evidence.

Mr. Miller: No objection.

The Court: Very well.

(Thereupon the document so offered in evidence was marked and received in evidence as Plaintiff's Exhibit A and is in words and figures as follows, to-wit:)

198 Mr. Benoy: Mark this Plaintiff's Exhibit B.

(Whereupon the document was marked as requested, Plaintiff's Exhibit B for identification.)

Mr. Benoy: Q. I am handing you what has been marked as Plaintiff's Exhibit B, and ask you whether that is a sample of one of the instructions to Truckmen you received in connection with notifying you?

A. Yes, sir.

The Court: Are you offering that in evidence? Any objection?

Mr. Miller: No objection.

The Court: It may be received and marked as Plaintiff's Exhibit B.

(Thereupon the document so offered in evidence was marked and received in evidence as Plaintiff's Exhibit B and is in words and figures as follows, to-wit:)

199 Mr. Benoy: Mark this Plaintiff's Exhibit C for identification.

(Thereupon the document was marked as requested, Plaintiff's Exhibit C for identification.)

Mr. Benoy: Q. I am handing you Plaintiff's Exhibit C and ask you whether that illustrates the method in which you handled a bill of lading?

A. Yes, sir.

Mr. Benoy: I am offering in evidence Plaintiff's Exhibit C.

The Court: Any objection?

Mr. Miller: No objection.

The Court: It may be received and marked.

(Thereupon the document so offered in evidence was marked and received in evidence as Plaintiff's Exhibit C and is in words and figures as follows, to-wit:)

200 Mr. Benoy: Mark this Plaintiff's Exhibit D.

(Thereupon the document was marked as requested, Plaintiff's Exhibit D, for identification.)

Mr. Benoy: Q. I am handing you Plaintiff's Exhibit D and ask you if that illustrates the method and manner you received your payments?

A. Yes, sir.

Q. The one on top is the voucher, is it not?

A. Yes, sir.

Q. Which indicates to you the amount of the particular voucher coming to you and below there is a subtraction on two note payments, less two note payments?

A. Yes, sir.

Q. Totalling $146.17; those are payments which you have authorized Greyvan Lines, Inc. to pay from your account and charge it to your account, is that correct?

A. That is right.

Q. And then the showing below at the bottom is a draft covering that particular payment?

A. Yes, sir.

Q. That is the way that comes to you, is it?

A. Yes, sir.

Mr. Benoy: I offer it in evidence.

201 Mr. Miller: May I see it, please. No objection.

The Court: It may be received and marked Plaintiff's Exhibit D.

(Thereupon the document so offered in evidence was marked and received in evidence as Plaintiff's Exhibit D and is in words and figures as follows, to-wit:)

202 The Witness: May I make a statement pertaining to that?

The Court: Your counsel will take care of that.

Mr. Benoy: Mark this Exhibit E.

(Thereupon the document was marked as requested, Plaintiff's Exhibit E for identification.)

Mr. Benoy: Q. This Plaintiff's Exhibit E which I hand you is that exemplary of the monthly settlement statement that you received?

A. Yes, sir.

Q. And that in one column is known as the base load?

A. Yes, sir.

Q. What does that carry?

A. It carries the transportation and shows what the shipper has paid.

Q. In other words, that is the tariff, is it?

A. That is right. The next column is the percentage—my percentage to me.

Q. And you have certain advances that are charged to you there, don't you?

A. Yes, sir.

Q. what are those?

A. Those are expense money the company gave me prior to going out on the road so that I would have sufficient money to pay all the incidental expenses that 203 occur in the transporting of these goods.

Q. That represents a certain proportion of the amount you will receive on that particular load?

A. Not necessarily.

Q. But it never exceeds that amount, does it?

A. It has at times.

Q. Then you get what you call a special advance, don't you?

A. Yes, sir.

Q. Now, where did you get these advances?

A. At the various offices, company owned offices, or if there is no company owned office, we don't wire home for money which is hard to do sometimes in order to avoid delay we wire the company at Chicago.

Q. Whose expense then?

A. At our expense.

Q. And then those advances, plus any authorizations such as charges for a particular thing are put into the "amount charged" column?

A. Yes, sir.

Q. And the difference at the end of the month is stricken off the advances for what you owe?

A. Yes, sir.

204 Q. And you are paid the difference on the amount coming to you?

A. Yes, sir.

Q. In this particular case you had a net balance of $244.41, did you not?

A. Yes, sir.

Mr. Benoy: Mark this Plaintiff's Exhibit F for identification.

(Thereupon the document was marked as requested Plaintiff's Exhibit F for identification.)

Mr. Benoy: Q. However, before arriving at that, they charged you with a deposit of $250.00, haven't they?

A. Yes, sir.

Q. That made your total due that month $705.41 altogether?

A. Yes, sir.

Q. Now this Exhibit F then shows the payment of that amount and the manner of it?

A. Yes, sir.

Q. At the top is the voucher showing $705.41 in the center list your deduction of two note payments amounting to $146.17, which leaves you a balance of $599.24 paid
205 by the check shown on Exhibit E, does it?

A. $559.24.

Q. $559.24?

A. Yes, sir.

Mr. Benoy: Mark this, and it is offered in evidence.

Mr. Miller: No objection.

The Court: F is received in evidence.

(Thereupon the document so offered in evidence was marked and received in evidence as Plaintiff's Exhibit F and is in words and figures as follows, to-wit):

206 Mr. Benoy: Mark this Plaintiff's Exhibit G.

(Thereupon the document was marked as requested, Plaintiff's Exhibit G for identification.)

Mr. Benoy: Q. Plaintiff's Exhibit G for identification which you have in your hand shows the September statement does it not?

A. Yes, sir.

Q. With a net due you of $955.41?

A. Yes, sir.

Q. And there were deductions, so you got on that the total amount shown on Plaintiff's Exhibit F, is that correct?

A. Yes, sir.

Q. In other words, Plaintiff's Exhibit F paid you for the amount due shown on Plaintiff's Exhibit G?

A. Yes, sir.

Mr. Benoy: Mark this as Plaintiff's Exhibit H for identification.

(Thereupon the document was marked as requested, Plaintiff's Exhibit H for identification.)

Mr. Benoy: Q. I hand you Plaintiff's Exhibit H and

ask you whether or not that shows—is that one of your bonus payments that was taken care of?

A. Yes, sir.

207 Q. And that was for the month of—dated October 21, 1941, the check payable October 27, 1941, is that correct?

A. That is for the month of September.

Q. That is $86.16, is the bonus due that month?

A. Yes, sir.

Mr. Benoy: We offer Plaintiff's Exhibit H in evidence.

The Court: Any objection?

Mr. Miller: No objection.

The Court: H may be received.

(Thereupon the document so offered in evidence was marked and received in evidence as Plaintiff's Exhibit H and is in words and figures as follows, to-wit):

208 Mr. Benoy. Q. Now I hand you what purports to be a statement of your running account from January, 1941 to April, 1943, showing total payments due you of $28715.27, during that time; is that a correct statement of your account?

A. I couldn't make the statement, yes or no, on that.

Q. That was prepared by others than yourself, was it?

A. Yes, sir.

Q. In that connection, Mr. Parsley, is there a profit due you, operating under the contract over and above the amount that would be paid to you as wages during the same time?

A. I believe there is.

Mr. Stephan: Your Honor, I will object to that conclusion. He wasn't working for wages.

The Court: Well, I will let him state his opinion. It may stand.

Mr. Benoy: The answer is "yes", is it not?

A. Yes, sir.

The Court: The answer may stand.

Mr. Benoy: Q. Can you estimate what proportion of your average weekly draw is profit to you after payment of all expenses, the average monthly settlement, can

209 you state to the Court what portion of the average monthly payment?

The Court: Monthly or weekly?

Mr. Benoy: Monthly payments to you after the payment of all expenses is profit?

A. About fifty per cent.
The Court: How much in money?
A. Approximately $250 to $300 a month.
Mr. Benoy: You may examine.

Cross-Examination by Mr. Miller.

Q. Mr. Parsley, how long have you been working for the Greyvan Lines under contract?
A. I believe it was in September of the year 1938.
Q. Will you state—or are you still in the employ of the Greyvan Lines?
A. Well, I consider myself my own employer.
Q. Are you still under contract with the Greyvan Lines?
A. Yes, sir.
Q. Now, calling your attention to this so-called bonus statement, did you receive those statements every month?
A. Yes, sir.
210 The Court: Refer to the Exhibit numbers if there are any.
Mr. Miller: I don't believe I have that.
The Court: What is the exhibit number?
Mr. Miller: What is the last exhibit?
The Court: Exhibit H; very well.
Mr. Miller: Q. Did you receive those statements each month?
A. Yes, sir.
Q. And was there any time that you did not receive the full amount of the bonus?
A. Yes, sir.
Q. And was there usually certain comments attached to the certificate, the statement you received concerning the computation of the bonus?
A. The majority of times there was, yes, sir.
Q. And do you know on what basis your personal appearance and mental attitude—
A. I couldn't say just offhand.
Q. Do you know who made up these joint statements, Exhibit H?
A. There were different men made them up on different occasions. They were made by different men at different times.
Q. They were made up by the Greyvan Lines, Incorporated, were they not?

211 A. Yes, sir.

Q. And concerning the mechanical and physical maintenance of your trucks, do you know who made the examination on that?

A. There was never none made that I know of.

Q. Do you know on what basis that was made up?

A. By the comments of the customers.

Q. It was turned in to the Greyvan Lines?

A. By the customers, yes, sir.

Q. Now, calling your attention to Plaintiff's Exhibit A, the Truckmen's Agreement, was that the only written agreement you had with the company?

A. Yes, sir.

Q. And was that agreement signed when you first went to work for the company?

A. Yes, sir.

Q. And you never had any other agreement, plan or writing concerning the course of your relations with the company?

A. No, sir.

Q. And did you perform any work or service for any other company?

A. No, sir.

Q. For the Greyvan Lines during the time you were 212 under contract?

A. No, sir.

Q. Did you own your own tractor and truck?

A. Tractor and trailer.

Q. Tractor and trailer?

A. Yes, sir.

Q. Were the statement of your account between yourself and the Greyvan Lines made mouthly?

A. Yes, sir.

Q. Each month?

A. Yes, sir.

Q. Calling your attention to Plaintiff's Exhibit B, Instructions to Truckmen, when did you receive those instructions concerning the time you were to pick up the load and the time you were to deliver it?

A. They usually got the date that we were to pick it up but not the delivery date.

Q. That was on the shipment time, wasn't it?

A. Occasionally that was when the people wanted it.

Q. Most of your hauling is household furniture?

A. Most of it.
Q. You did haul some office furniture?
A. Yes, sir.
Mr. Miller: I think that is all.
The Court: If you have any re-direct examination, as you say only one question let us finish with this witness, then the drivers can go back to work. There is no use keeping them here all the time.
Mr. Benoy: I don't think of anything more just now, your Honor.
The Court: The rest of your testimony will be cumulative?
Mr. Benoy: Yes.
The Court: I don't want any repetition. Very well. Step down.
We will recess at this time until ten o'clock tomorrow morning.

(Thereupon a recess was taken to Wednesday, February 2nd, A.D. 1944 at ten o'clock A.M.)

216 In the District Court of the United States
(Caption)

Before:

Hon. William J. Campbell, Judge.

Tuesday, February 2, 1943. 10:00 o'clock A. M.

Court met pursuant to adjournment.

Counsel Present:

Messrs. Wilbur E. Benoy and George T. Christie, Appeared for Plaintiff;

Mr. J. Albert Woll, United States District Attorney for the Northern District of Illinois, Eastern Division, at Chicago, by

Mr. John D. Stephan, Assistant United States District Attorney, and

Mr. Homer R. Miller, Special Assistant Attorney General of the United States of America, Appeared for the Defendant.

(Thereupon the following proceedings were had.)

217 Mr. Benoy: Before I proceed with the witness I wish to offer in evidence an agreed statement of facts which has been stipulated; shall I read it?

The Court: What do you mean, this stipulation?

Mr. Benoy: That is right.

The Court: No, no, it has been filed in evidence. It was filed yesterday.

Mr. Benoy: All right. Mr. Shearer.

WALTER W. SHEARER, called as a witness on behalf of the Plaintiff, after having been first duly sworn was examined and testified as follows:

Direct Examination by Mr. Benoy.

Q. Your name, please.

A. Walter W. Shearer.

The Court: How do you spell your last name?

A. S-h-e-a-r-e-r.

Mr. Benoy: Q. What connection have you with the Greyvan Lines, Incorporated?

A. Treasurer.

Q. How long have you been connected with the Greyvan Lines?

A. Since January 1, 1934.

218 Q. What is your particular line of work?

A. All accounting, financial.

Q. And does that have to do with the settlement with the truckmen under the contracts?

A. Yes, sir.

Q. What records do you keep in your office with respect to the truckmen?

A. As far as the accounting statements—

Q. I didn't get it.

A. The monthly statement.

Q. What is shown on that statement?

A. That statement shows all the loads that were transported by the contract truck men. The advances he received against such loads. The amount of earnings. His portion of the contract, his portion of the transportation charges; the charge for public liability and property damage. Insurance claims that may be charged against his account or any bills that we may pay for him which he has previously authorized.

Q. I am handing you Plaintiff's Exhibit E and ask you whether or not you recognize that as one of the statements, for which particular month?

A. This is a statement of M. R. Parsley; van 200 for the month of June, 1941.

Q. Now, is M. R. Parsley one of the truckmen who
219 has contracts with the company?

A. He is.

Q. And is that the contract, Exhibit A, which has already been offered in evidence?

A. It is.

Q. How many of these contract truckmen, were there separate ones now covering the year 1937 to and including the first three months of 1942 which is the period covered in this suit; approximately how many were there?

A. I would say between fifty and sixty.

Mr. Benoy: Now, if your Honor please, we have in the courtroom the contracts of each of the several truckmen; all of which are similar to or identical with, I should say, Exhibit number 1 which has been offered in evidence with the exception—

The Court: You mean Exhibit A? Keep your record straight.

Mr. Benoy: With the exception of the tariff attached, either through some changes between the year 1937—went through some changes, rather, between the year 1937 and 1943—in 1942, rather, that is, there was a revision upward and those tariffs, I take it are immaterial except as affording an example to your Honor of what they are; how-
220 ever, as I say all those contracts are in the courtroom and they may be examined by counsel for the government. I take it, it is not necessary to offer each one of them in evidence.

The Court: No, I don't think so, either.

Mr. Miller: That is satisfactory, Your Honor.

The Court: Very well, one is sufficient as a specimen.

Mr. Benoy: That is what I had in mind.

The Court: That is sufficient.

Mr. Benoy: Q. Now, Mr. Shearer, I ask you to take in your hand Exhibit F which is attached to the agreed statement of facts and having reference to the exhibit and particularly the names that are copied under the name of employee in that column; who are those respective names that you find in the column, take the first sheet?

The Court: Isn't the stipulation enough for that?

Mr. Benoy: No, if your Honor please, I submitted a stipulation—

The Court: This is a stipulation.

Mr. Benoy: Yes. I submitted a stipulation covering practically this entire case, but the government would not execute it.

The Court: What is this stipulation, let me see—

221 Mr. Benoy: In other words it is part of the denial that these men that appear are employees, not contract truckmen, that is what I am getting at.

The Court: What have you stipulated to here?

Mr. Miller: The stipulation, our difficulty in getting together with Mr. Benoy is this. Mr. Benoy—we don't want to stipulate ourselves out of Court very bad on the main fact in this case. The stipulation doesn't cover the real question at issue. We have been unable to agree with Mr. Benoy on those exact facts.

The Court: As to whether or not these people who are listed here as truckmen. Why do you take up my time with that? Can't you use the records and find out and then stipulate?

Mr. Miller: We admit that these men are truckmen, there is no issue there.

The Court: Well, as to whether they are employees or contractors, that is for me to determine.

Mr. Benoy: That is for you to determine.

The Court: What do you want; that is what I am talking about now.

Mr. Benoy: I want him to tell us if these particular men listed in these exhibits F, G, H and I, are what you charge, having contracts with the Grayvan Lines—

222 The Court: Hasn't the Government agreed on that?

Mr. Miller: Yes, your Honor, I thought the stipulation covered that.

Mr. Benoy: No, you deny we have contracts.

Mr. Miller: We do not. I think—I don't think we made any such denial as that.

The Court: What does the stipulation say on that? Have you a copy?

Mr. Miller: Yes, your Honor.

The Court: If you haven't the stipulation—

Mr. Miller: Paragraph 5, I think paragraph 5 covers it, Exhibits F, G, H and I were concerned with respect—

Mr. Benoy: It is paragraph 4.

Mr. Miller: Then 6 I think probably—

The Court: I have read 6.

Mr. Benoy: Paragraph 6 is the only one in which they approved it.

Mr. Miller: You say they are truckmen who owned and operated the trucks.

Mr. Benoy: My question to the witness is whether or not these identical men who operated these trucks under the truckmen's contract exemplification of which is Exhibit A?

Mr. Miller: We have no objection to that question.

The Court: I indicated in the pre-trial conference
223 that I wanted you people to look at the records of the plaintiff corporation and to stipulate any of these facts or as many of these facts as possible and save me my time. I don't know why one of your agents couldn't look through the books and ascertain it, as to whether these people are the people whose name is on the contract and then stipulate to it and save the Court's time.

Mr. Miller: We are perfectly willing—

The Court: Why wasn't it done? You were directed to do it on the pre-trial of this case.

Mr. Stephan: We felt we were willing to stipulate and will right now if—

The Court: Do so. What other facts do you want stipulated?

Mr. Benoy: I have here a stipulation and I submitted it to the government and about one third of it they would sign and the other two-thirds was not signed.

Mr. Miller: I might say, your Honor, we submitted one back to him and he doesn't want to agree to the facts that we want here.

The Court: What further facts do you want with reference to the schedules for the stipulation? Has the government looked at this?

224 Mr. Benoy: That is right.

The Court: Are the truckmen with whom the plaintiff corporation contracts similar to Exhibit A?

Mr. Miller: That is right.

The Court: What else do you want stipulated?

Mr. Benoy: That will cover it.

The Court: What else does this witness have to testify to?

Mr. Benoy: He will give, as I take it, a little review here of this. There are several things he has to testify to.

Now, these persons who are listed on the exhibit referred to are residents of various states are they not?

A. That is correct.

Q. They are not all residents of one particular locality, are they?

A. That is right.

Q. Now, have you any records in your office whatsoever from which the blank shown on the exhibit under the heading "Plaintiff's Account number" could be ascertained; in other words, do your records show the Social Security number of any of these truckmen or the employees of any of these truckmen?

A. With a few exceptions, no.

Q. Well, what are the exceptions?

225 A. Well, they have been—I can't say definitely, there may have been some one of these operators who may have had a social security number.

Q. As a general rule did the truckman have employers social security number?

A. That I do not know.

Q. Did some of them have?

A. Some of them did, yes.

Q. Was there any report made to you by the truckmen of the wages that they paid for assistants to them in either the operation of the truck or the loading or unloading of household goods at the point of origin or at any time?

A. Not that I remember.

Q. Now, I suppose the government also will concede, I think it is not stipulated, that Exhibit A which is the Unemployment tax and Exhibit B, Exhibit C and Exhibit D is made up in the same manner?

The Court: That is the exhibit attached to the stipulation?

Mr. Benoy: Yes. And from the same source, I think the same data which they secured from the examination.

Mr. Stephan: We will so stipulate, your Honor.

The Court: Let the record so show.

226 Mr. Benoy: Which are the sheets you have designated and identified. Exemplifying as Plaintiff's Exhibit E, taken from your books, the sheets from the Deputy Collector, from the Internal Revenue Office, seems to make up the supplemental return?

A. Yes, sir.

Q. Did the company have anything to do with reference

to the hiring of these truckmen of any employees, either as assistants in operating the trucks on the highway or in loading and unloading the goods?

A. No, not in so far as employment is concerned. The truckman employed his own help.

Q. That means the company did not do it?

A. That is right.

Q. Did he have the option of loading or unloading his own goods or hiring it done?

A. Yes, sir.

Q. There are certain matters in the schedules in which the truckmen were paid 100 per cent of what he either made or paid for the handling of those goods; will you tell the Court what they are?

A. Well, these were covered by the schedule in the truckmen's agreement; there is an unusual attention to that—I wouldn't say unusual items, but they are covered by the tariff and they are such as a packing charge
227 which is seventy per cent. There is an advance which is considered as an advance which he may pay and charge the shipper. He is given naturally, reimbursement in the full amount of that expenditure like in the case of a hoisting job of a piano, a piano carried—hoisted or carried up, if he performs that service he is entitled, according to the contract, to 100 per cent of the tariff.

Mr. Benoy: Q. Where is the loading and unloading done?

A. At the various shippers' residences, office buildings, and to office transfers, sometimes to and from or from a warehouse or delivering to a warehouse in a distant city.

Q. Do you have on organization throughout the thirty states and in the District of Columbia in which you operate?

A. We have an organization of company owned branches and sales agencies throughout the various points in thirty eight states; however, all points through which we make pickups, or have truckmen pick up and deliver shipments are not covered by that type of our organization.

Q. Now, do you have a sales organization?

A. We do.

Q. What is the purpose of it?

228 A. The purpose of a sales organization is to solicit business, estimate the cubic capacity, so that the dis-

patcher may proceed to dispatch the required space for transporting.

Q. Now are those repeat orders, one each, one single order, how about those?

A. Every shipper seems to know about movement of household goods. Once you move the shipper you may not move that shipper again for one year, or two years or three years; in other words, it is a different business. It is not the same as a general trucking business where, if an order is written up or again where they automatically call you in every day to pick up so many thousands pounds at a place; the business is more scattered.

Q. And what is the nature of the men which you must have to take care of the moving of those goods of the character of those goods, what is the character of the men you must have?

A. We must have a man that is of good character. He must be able to meet the housewife and use the proper psychology under certain instances. He must naturally be a man who knows how to pack and deliver furniture properly.

Q. I call your Honor's attention, even to the fact
229 that we operate as a common carrier under the jurisdiction of the Interstate Commerce Commission; this was not admitted by counsel; so we have to prove that fact.

Mr. Miller: No, your Honor.

The Court: Well, did you request them to admit it?

Mr. Benoy: Yes, I did.

Mr. Miller: The difficulty is the manner in which they used to tie it in with other facts here.

The Court: Well, I think—which counsel is to blame, I don't know, I think both sides failed in the duty imposed upon them by the court and that is why this testimony is so repetitious, and with the exception of some parts of it it should take only about thirty minutes. A lot of this matter could have been stipulated to in the first instance, and an investigation properly made by the Treasury agents. I think it is disgraceful to spend this time with half the number of judges we should have at the present time, and with the number of cases that have to be continued. This morning I put over two draft cases which were set here and I have to sit here and listen to this repetitious testimony that could have been stipulated to, and I want the record to show those facts that counsel for both sides

have utterly failed in the obligation imposed on them
230 by the court at the pre-trial conference.

Mr. Benoy: I am willing to submit whatever agreed statement was proposed or any counter-proposal they made.

The Court: For that purpose I direct at this time, at the time of filing of briefs I want filed also—what action the court may take on that proposal or counter-proposal which counsel has submitted and resubmitted in accordance with the Court's order at the pre-trial conference. I want to know how these pre-trial orders are followed out. I am not taking my time on pre-trial conferences merely for amusement.

Mr. Benoy: May I answer your Honor, we carried out your order and submitted twelve or fourteen truckmen for the government to interview as suggested and requested.

The Court: I want to see the stipulation that was submitted exactly to that. I want that submitted with the briefs.

Is the government now stipulating that they operate under a permit from the Interstate Commerce Commission?

Mr. Stephan: Yes, we do.

The Court: Let the record show the stipulation.

231 Mr. Benoy: I don't see the necessity of offering the Regulation of the Interstate Commerce Commission which I assume if counsel for either side desires to rely on that portion of it they may put it in and your Honor will take judicial notice of it.

The Court: I will.

Mr. Benoy: I will go through here as quickly as I can. Now there are some unknown helpers listed on page 24 of the stipulation. Will you tell how those were—I think it is stipulated how they were arrived at, but do you have any records in your possession which show the names or addresses of these unknown helpers which are listed on page 24 as dummies, where is 24 or 26? You may be able to refer to the Exhibit. Here it is on page 26, the heading at the top is headed: "Dummy".

The Witness: I have no record of those at all.

Q. Now, which particular persons was that alleged assessment with respect to?

A. To the temporary help that was hired by the contract truckman to help load and unload.

Mr. Benoy: Has your Honor found it?

The Court: No, I just want the sub-head.

Mr. Benoy: Page 26.

The Court: Which exhibit?

232 Mr. Benoy: Exhibit G.

The Court: All right, I have it, go ahead.

Mr. Benoy: Q. In other words you have no records in your office whatsoever with respect to that?

A. No, sir.

Q. How was it estimated?

A. I believe that it was estimated on the basis of the amount for the truckmen.

Mr. Stephan: Your Honor, I think that point is in the stipulation. I think it was estimated.

Mr. Benoy: I think it is fairly well covered.

The Court: Very well.

Mr. Benoy: That is covered.

The Court: I will read the stipulation after I have the evidence.

Mr. Stephan: Paragraph A and B.

The Court: Don't cover any points that are in the stipulation.

Mr. Benoy: All right.

Q. There are certain collections made by these truckmen, are there?

A. Yes, sir.

Q. And how are they remitted to the home office?

A. Either turned into the branches or sent by mail, wire or in some cases postal money order; sometimes

233 [redacted] money by registered mail.

Q. Whose responsibility is it for that money until it reaches the possession of the Greyvan Lines?

A. The truckmen.

Q. May that money be turned over to agents in certain cities that are above listed?

A. With only one or two exceptions, no.

Q. Are these truckmen placed under a Fidelity bond?

A. Yes, sir.

Q. What is the deposit of $250.00 required for?

A. That is a deposit required under the contract which permits you to pay truckmen at the end of the month without taking into consideration any claims that may be pending and also carried until the final settlement of the account in the case of a truckman leaving the company.

Q. And part of the orders for payment on this, is that held for security on those?

A. Sir?

Q. Is that held for security on orders, upon the orders of the truckmen to pay on his account?

A. That amount might become a charge against the truckman's money for a claim on the monthly statement, which would have been rendered.

Mr. Benoy: Now, gentlemen, is it also stipulated
234 so far as the claim is concerned that it relates only to the—what we have established here to be the contract truckmen, that is, it does not relate to any of the regular employees of the company?

Mr. Miller: When you say "regular employees" you mean the truckmen for the company, when the company owns the tractors and trailers; let me understand your question.

Mr. Benoy: The company also has certain moving vans upon which it operates, does it not?

A. That is right.

Q. It has its own employees on that equipment?

A. That is true, the company.

Mr. Benoy: So that I am asking a stipulation here that this claim is not—does not cover any of the company's regular employed help, but pertains only to the contract truckmen and the employees of the contract truckmen whom he paid and discharged.

The Court: It is so stipulated.

Mr. Miller: It is so stipulated.

The Court: You may proceed.

Mr. Benoy: Q. The company operates its revenue under tariffs that are filed with the Interstate Commerce Commission?

A. That is true.

235 Q. And as to those tariffs, the truckmen collect the amount and remit to the Greyvan Lines, is that correct?

A. Yes.

Q. And to these contract truckmen do you pay them any wage whatever?

Mr. Miller: I object to that, your Honor, as his conclusion.

The Court: Well, he may state the payments he made. What you mean is whether he made any payments in

addition to those called for in the contract. I have a copy of the contract. Is that your question?

Mr. Benoy: Yes; are they limited to the contract payments?

A. They are.

Q. And in the method and manner you have described?

A. Yes, sir.

Mr. Benoy: You may take the witness.

Cross-Examination by Mr. Miller.

Q. How long has your company held a certificate of public convenience and necessity from the Interstate Commerce Commission?

A. The certificate was actually issued, I believe it
236 was September 18, 1942; however, we were operating under a docket number prior to the determination by the Interstate Commerce Commission; that docket number being our Grandfather application for rights.

Q. Did you attend a hearing before the Interstate Commerce Commission?

A. Yes, sir.

Q. Now did you have anything to do with the preparation of a manual for truckmen that has been marked Government's Exhibit A—Government's Exhibit 1, I believe?

A. I may have had the one section regarding the collections.

Q. Are you familiar with that volume?

A. I am familiar with the book. I would say I know there is such a book.

Q. That is the volume?

A. That is the volume.

Q. And was that manual issued to each one of the contract truckmen at the beginning of their employment or at the beginning of their contract with you?

A. No because the manual wasn't issued when some of the boy's contracts started with the company.

Q. When was that manual first put out?

A. I believe it was in 1940.

237 Q. In 1940?

A. Yes, sir.

Q. And prior to that time did you have a similar manual to this?

A. No, sir.

Q. Did you issue any type of manual to your truckmen prior to that time?

A. There was no manual issued.

Q. Did you issue any bulletins with the same instructions?

A. There were such bulletins issued on—

Q. Do you have those bulletins with you?

A. No, sir.

Q. But beginning with 1940 this manual was issued to each one of the truckmen?

A. Yes, sir.

Q. Was that done at the beginning of the operation of the trucks then?

A. I told you there were some contracts issued before the manual, so that they could not have had them.

Q. Well, now let us assume truckmen had started under the contract with your company in 1938, did you issue him a manual?

A. He was given a manual, yes, sir.

Q. Then each one of your truckmen got a manual?

238 A. That is true.

Q. You charged each one of these truckmen $2.50 for the manual, didn't you?

A. Not to my knowledge.

Q. Would you say you did or didn't?

A. I don't remember that we did.

Q. Now, with reference to the computation of this Social Security tax, you were in charge of the negotiations with the representatives of the Collector's office concerning that matter, were you not?

A. Yes, sir.

Q. And did you agree to the computations by the Collectors as to the amounts that were determined by them?

A. I agreed that the figures they have set out is a fair figure but acknowledged no liability for the company.

Q. In other words you agreed that if the truckmen were employees, the figures that they used were correct?

A. That is correct.

Q. So that there is no controversy about the amount of the wages mentioned by the collector?

A. No, sir.

Mr. Benoy: Well, I will object to that. You can't very well make a wage where none existed.

239 The Court: I will draw the conclusion whether it is a wage or not.

Mr. Miller: All right.

Q. Now, did your company do any advertising?

A. Yes, sir.

Q. In the telephone directories?

A. Yes, sir.

Q. Are you familiar with the advertising listed in the directories?

A. Generally.

Mr. Miller: Mark this Government's Exhibit 2, I believe it is.

(Thereupon the document was marked as requested, Government's Exhibit 2 for identification.)

Mr. Miller: Q. I will hand you Government's Exhibit 2 and ask you what that is?

A. That is what is referred to as a classified directory ad.

Q. Inserted by your company?

A. Inserted by the company in the Chicago Directory.

Q. In the Chicago Directory for August, 1937?

A. Correct.

Q. And Government's Exhibit 3—mark this, Mr. Reporter.

240 (Thereupon the document was marked as requested, Government's Exhibit 3 for identification.)

Mr. Miller: Q. I will hand you Government's Exhibit 3 which appears in the Chicago Classified Telephone Directory for September, 1942, and ask you whether or not that is an ad inserted by your company?

A. It is.

Q. Did your company have a contract with the Labor Union concerning the Owner-Operators of trucks?

A. Yes, sir.

Q. Do you have that contract with you?

A. Yes, sir.

Mr. Benoy: I have furnished the Government with a copy of the contract long since and I have no doubt but what you have it in your possession.

Mr. Miller: We do.

The Court: Are you going to offer it in evidence?

Mr. Benoy: Yes, sir.

The Court: He stipulates it is a correct contract. I can read it. I don't think you need have the witness read it.

Mr. Miller: It is stipulated.

The Court: This is a copy he furnished you?

Mr. Miller: That is right.

241 Mr. Benoy: It isn't, we furnished you a photostat.

Mr. Miller: It has been furnished by your side of the case by some one, I don't know.

Mr. Benoy: We are not certain in saying whether it is correct or not.

The Court: All right.

Mr. Miller: Except it will be stipulated this is the contract.

The Court: Oh, certainly.

Mr. Miller: Mark this Government's Exhibit 4, please.

(Thereupon the document was marked as requested, Government's Exhibit 4 for identification.)

Mr. Miller: Q. How many Owner-Operators were under contract with you; approximately during these years?

A. I testified previously between fifty and sixty, that is, to the best of my knowledge.

Q. How many trailers does your company own?

A. Well, that depends on the period you are talking about. We owned from nothing to possibly eighty.

The Court: How many?

A. Eighty.

Q. Eighty?

242 A. Company owned trailers.

Mr. Miller: Q. And all of the trailers, the company's name was painted on the trailers?

A. Yes, sir.

Mr. Miller: I think that is all.

The Court: Any re-direct examination?

Re-Direct Examination by Mr. Benoy.

Q. I made an effort to have the witness identify certain statements which you made up; have you made up for the information of the Court a summary of the transportation revenue by the contractors showing both to the contractor and the company for certain amounts covering the period of this operation?

A. Yes, sir.

Q. And have you made up several of the individual operators, for instance, Mr. Pawley who was on the stand yesterday?

A. Yes, sir.

Q. And Mr. Bossert who was on the stand yesterday?

A. Yes, sir.

Q. Are they fairly exemplary of the operations of the amount of revenues received by these contractors?

A. I would say so, yes, sir.

243 Mr. Benoy: I want to have these marked as exhibits and then offer them in evidence.

The Court: Give copies to the government.

Mr. Benoy: Yes, I have, Exhibits I, J and K. I think that is all.

The Court: Are you going to offer these?

Mr. Benoy: Yes, I think I did, Judge. I offered them in evidence.

The Court: No, let us—

Mr. Benoy: I offer them in evidence as Plaintiff's Exhibits I, J and K.

The Court: Any objections?

Mr. Miller: No objections.

The Court: They may be received and marked Plaintiff's Exhibits I, J and K.

Any questions relative to those exhibits?

Mr. Miller: These Exhibits I, J and K cover bonuses paid the employees?

The Witness: Yes, sir, they include bonuses.

Mr. Miller: That is all.

(Thereupon the documents so offered in evidence were marked and received in evidence as Plaintiff's Exhibits I, J and K, and are in words and figures as follows, to-wit:)

244 The Court: All right, you may step down.

Mr. Benoy: Mr. Prante.

ARTHUR F. PRANTE, called as a witness on behalf of the Plaintiff, after having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Benoy.

Q. Your name, please?

A. Arthur F. Prante.

The Court: How do you spell the last name?

A. P-r-a-n-t-e.

Mr. Benoy: Q. Your age, please?

A. Forty.

Q. Where do you live?

A. 8208 Kimbark Avenue, Chicago.

Q. What occupation did you have with Greyvan Lines, Incorporated?

A. Dispatcher.

Q. And how long have you been connected with the Greyvan Lines?

A. Twelve years.

Q. Now, as Dispatcher for the Greyvan Lines, what were your duties generally?

245 A. To assign shipments to a truck for shipment and vice versa.

Q. And where is that done from?

A. Chicago, through intermediate sources.

Q. Now did you get the information as to the contract for transportation of goods for the Greyvan Lines, obtained them from place to place?

A. Yes, I do.

Q. Or relayed to you for checking, is it?

A. That is right.

Q. What did you do after you got that information?

A. Well, we insert the information in books which we have in our office through some reports that are compiled by the branch offices and they are kept in there, the date and order according to location and we work from those entirely.

Q. Well, now then to be shipped about what time, you then consign those transportation contracts to be handled by certain of the truckmen, do you?

A. That is right.

Q. And that includes not only the truckmen, those that are operated, owned and operated by the Greyvan Lines own employees, also by these truckmen who own and operate their own equipment, is that right?

A. That is right.

246 Q. Now, generally what means did you follow in assigning those?

A. Well, that all depends on what person is available for the orders.

Q. And assume that you have an order for transportation of goods, at Atlanta, how do you assign it?

A. We would have to check and find out what equipment was available there in that immediate vicinity.

Q. And then you would assign it to that particular truck that was available, whether a company truck or whether it was an independent contractor, would you?

A. That is right.

Q. Now, you are acquainted with the operations of these trucks, are you, both as to the company owned equipment and as to the individual owner operated equipment?

A. Oh, yes.

Q. When a person has delivered a load, what does he do?

A. The driver phones in to me, wires me, or if he should be unloading where we have a branch office he will report to that branch office for his next instruction.

Q. And that next instruction as to what load he may have and where it may go, is that right?

247 A. That is it.

Q. In other words, it is your job to keep this equipment rolling and the goods being delivered, is that it?

A. Yes, sir.

Q. Now, you and I worked out the other day nine different respects in which the contract truckmen differ from the employees, in that contract?

A. That is right.

Mr. Benoy: I would like to have you tell the Court as to the differences, and I will ask you first as to the right of the contract truckmen to refuse to accept loads that may be tendered to him by you?

A. They have, though contract truckmen do not, as a common thing, refuse to handle shipments when they are issued instructions on those orders.

Q. What do you mean by instructions?

A. Loading instructions, we prepare in our office for them.

Q. That is a paper prepared in your office for them and labelled instructions to the truckmen, is it?

A. That is right.

Mr. Stephan: Your Honor, I would like to interpose an objection here.

248 The Court: Overruled.

Mr. Benoy: Now, I am handing you Plaintiff's Exhibit B and ask you if that is one of the instructions to which you just referred?

A. Yes, sir, it is.

Q. And then after those are issued, he either accepts or refuses the load, does he?

A. Yes, he may have reasons for refusing it.

Q. If so, you accept them, do you?

A. In some cases, not in all. We determine the reason why he is refusing it.

Q. Now, supposing it is a good reason, then what?
A. Well, then we will try to be fair with the man.
Q. Well, suppose it is not a good reason or would not be a good reason?
A. Well, it might be a short haul or a poor pay load which might necessitate exorbitant labor costs on his part and as the result he might not make any money out of the load at all.
Q. Now, even in that event, where that was given as the excuse, what could you do or what would you do?
A. We could terminate his contract with the company.
Q. And that was all you could do, is that right?
A. That is all we can do.
249 Q. Now, as to the method of payment, that has already been gone into, that is different is it?
A. Yes, sir, it is.
Q. How do you pay your own employees?
A. They are paid on a weekly basis.
Q. On payroll?
A. On payroll, by payroll check.
Mr. Beuby: We have already established the method of payment to the contractor so that we will pass that.
Q. Now, the next possible difference is in the ownership, maintenance and operation of the equipment, what difference is there between the contract of the contract truckmen and your own employees in that connection?
A. Well, the contract truckman owns it in his own name under a certificate of title, the tractor and in many instances the trailer. The company driver does not have anything to do with the owning of the equipment, he merely drives it.
Q. Now what about the operation of it?
A. The contract truckman is responsible for all maintenance and expense connected with it.
Q. And the company pays nothing in connection with it, is that right?
A. That is correct.
250 Q. While the company pays all of the expense, all of the upkeep and maintenance of the company owned trucks?
A. That is right.
Q. And, of course, the operation, how does the contract truckman operate his own equipment?
A. I am sorry I didn't get that.
Q. How does the contract truckman operate his own

equipment; in other words may he do it himself or by somebody else?

A. Well, he may drive it himself or he may employ a driver to drive it for him; those arrangements are made between he and the driver. We enter into no agreements.

Q. How about the pay in that respect, except under the contract?

A. That is correct, the payments on that particular truck are limited to the owner of that truck.

Q. Now, with reference to any lost goods in transit which is not covered by insurance, do your truckmen stand for that?

A. The contract truckman is responsible for any claims that might develop, that is his responsibility.

Q. Now, on the company operated trucks, your own employees, who stands for that loss?

251 A. The company does.

Q. I believe the truckmen also furnish a deposit, do they not?

A. Yes, sir.

Q. Now, as far as the payments are concerned for the contract truckmen, they are determined by a pre-arranged schedule, by the contract itself, is it not?

A. Yes, sir, it is.

Q. While the employees of the company operate a truck they are upon the payroll?

A. Yes, sir.

Q. Now, as to the choice of routes, do you dictate all the routes the truckmen must take?

A. No, sir, they are left to their discretion and their judgment. If they want to drive two hundred miles out of their way it is their expense, because they pay all expense in connection with the operation of that vehicle, that is including gas and oil.

Q. So that through Pennsylvania, where they take the super highway?

A. That is up to them, because they have to pay the cost for going over the super highway.

Q. Now, as to laying off the equipment for a time, that possible for the contract truckman?

A. Yes, it is.

252 Q. Have you an illustration of that right now?

The Court: I didn't understand the question.

Mr. Benoy: Q. Have you an illustration of that at this time?

A. Yes, we have one in Springfield, Ohio, at the present time. He is off because of illness. The fact of the matter is he has been off now for about a month, possibly a little longer.

Q. His truck then is idle, is it?

A. Yes, it is at his home.

Q. It is not in the service of the company at all, not available for the company's service?

A. No, sir.

Q. Now, let us go to such as break down on the highway, how are they handled?

A. Should either one of the trucks break down, if he be a contract truckman or a Greyvan Lines truck, the driver informs me by telephone or telegram, gives me the pertinent information. If it should be a minor breakdown he will tell my office that delivery is expected at a certain time to be enroute, and that he expects to arrive at a certain time. He at all times does that. But if it is a major breakdown that will necessitate possibly two or three or four days lay-over to effect repairs and if there is a competent agency and it is necessary to transfer it, and he
253 transfers that on to another truck, or in the case of a major breakdown it may be necessary to send another tractor over to that point of breakdown to get the trailer on through to destination.

Q. Now, then, let us assume you get a contract truckman breakdown with a major breakdown and you have to transfer his load, how is he paid on the contract?

A. That is on a mileage basis; in other words, a contract truckman, the original contract truckman, or the original truckman is credited with the mileage from the point of origin or in other words where he picks up the load from the point of breakdown and the next truckman is credited for the mileage from the point of breakdown to destination.

Q. In other words, it is divided on a mileage basis?

A. Yes, sir.

Q. Now, we have another situation in which it is necessary that a driver—

A. Deadheading.

Q. Is that what you call it?

A. That is what we call it.

Q. Deadheading?

A. Yes.

Q. How do you handle that situation?

A. Do you mean how do we credit him?

254 Q. Do you give him any instructions in the first instance with reference to deadheading?

A. Yes, those are usually handled verbally or by telegram. The only two ways they are handled with the exception that when a truck is deadheading from the branch office to another point he is issued what we call "Deadhead Instructions".

Q. Is that what this yellow sheet here means which I am holding in my hand?

A. Yes, sir.

Q. And does the company pay the truckman on the contract for that deadheading?

A. That all depends on how much deadheading has been done in that particular month and how much loaded and empty mileage he has in that particular month. I believe that is stipulated in the contract as to how he is to be paid.

Q. That is provided for in the contract?

A. That is provided for in the schedule.

Q. Up to a certain point he bears a portion of the deadheading but beyond that the company bears a portion of it?

A. Yes, sir.

Q. Well, when an accident occurs is that reported to you—

A. In some cases, yes, sir.

255 Q. And that is where it affects the transportation, is that right?

A. Yes, if it is one of a serious nature, or if it should be after office hours, Sundays or holidays, the truckman usually phones me and I take the information and work on it from there in conjunction with Mr. Schurtzberg.

Q. In other words, you are available 24 hours a day, is that right?

A. That is correct.

Q. Now there has been reference to a manual of instructions to truckmen which was issued on April 20th by the company?

Mr. Stephan: 1940.

Mr. Benoy: Q. Did you ever refer to that manual in connection with your conversation with these truckmen?

A. No, sir, I have never referred to that; in fact, I have never read it.

Q. So far as your portion of the work is concerned, you do insist upon the performance of that manual, is that it?

A. No, sir, I never referred to it, never had occasion to refer to it.

Mr. Benoy: I believe that is all.

256 The Court: Cross-examine.

Cross-Examination by Mr. Stephan.

Q. You have been employed by the Greyvan Lines for twelve years?

A. That is right.

Q. You have been a dispatcher for those twelve years?

A. With the exception of three months when I first started.

Q. Now you spoke of the differences between the Owner-Operator and the Company owned units. You stated that the owner operator, I believe, could refuse to take a certain load, that is substantially correct?

A. That is right.

Q. Whether that reason was good or not?

A. Well, in most cases it was left up to me to report the reason for the refusal.

Q. In other words, you as an official of the company determined whether the reason for the refusal was good or not, is that true?

A. That is right.

Q. You also spoke of a situation where a man might
257 own a truck, also have another driver, driving it for him; now, as a matter of fact if he desired to put another man on that truck to drive, that driver had to be approved by the company, did he not?

A. Well, that is taken care of really through the bond.

Q. Well, I mean this man couldn't put any one he wanted to on that truck and drive it without the company's approval?

A. That I am sorry I can't answer. I do not think the contracts approve them relative to the drivers, so to speak.

Q. Who has charge of that?

A. During this period Mr. Schertzberg was in charge of that.

Q. Now you also stated substantially the driver, I believe, had his own choice of routes in making a haul, is that true?

A. That is right.

Q. Do you ever recollect any request where you instructed the drivers to take a certain route to arrive at a certain destination?

A. That I have been requested?

Q. Well, wasn't it true, and as a matter of fact, that certain states in the union had very strict laws re-
258 lating to trucks and are much stricter than other states?

A. Yes, that is right.

Q. Isn't it true, for instance, the State of Kentucky has a law, I believe, which made the length of your truck and the weight of your truck a violation of the Kentucky States laws, do you recollect that?

A. Yes, sir.

Q. Well, didn't you, on occasions when you had something going in that direction where normally the shortest route would be across the state of Kentucky, haven't you in some instances advised the driver of the owner-operator to avoid the State of Kentucky and take a longer route?

A. That was merely done through suggestion.

Q. Well, as a matter of fact, the company has been fined on several occasions, hasn't it, for the length of their trailers in the State of Kentucky?

A. That is right.

Q. And naturally the reason you would advise them to take a longer route and avoid those fines and penalties, that is true, isn't it?

A. Possibly tying the vehicle up for an unreasonable time.

Q. Now, I understand your testimony that you have
259 charge of the instructions to the drivers as to the pickup and destination of that load; that is true, isn't it?

A. That is right.

Q. Then it is fair to say, is it not, no driver can pick up a load from any shipper without instructions from you?

A. That is right; those instructions are issued, however, to intermediate offices, our branch offices.

Q. That instruction originated with you at your point of origin?

A. That is right.

Q. Do you have anything to do with the mechanical or the physical mechanical condition of the tractors, and the physical condition of the trailers?

A. No, sir.

Q. Who has charge of that?

A. That is in charge of the superintendent of operations.

Q. Do you have anything to do with the bonus plan as provided for in the contract between the company and the drivers?

A. No, sir.

Q. In other words, did you make any recommenda-
260 tions to Mr. Shearer or to Mr. Schertzberg what bonus should be paid?

A. Only in so far as reported in some cases.

Q. In other words, if you had a man and something came up with the shipper, that man's mental attitude was bad, or the mechanical condition of his vehicle was very poor, you would report that on to higher officials, would you not?

A. If it came to my attention.

Q. Are you familiar with the bonus plan you are operating under?

A. Yes, sir.

Q. You only know, do you, that two and a half per cent of your bonus may be earned for certain definite things such as good physical mechanical condition of the equipment, a man's personal appearance and mental attitude and that one half of one per cent can only be earned, if the other two and a half per cent is earned for a period of three consecutive months; you are familiar with that provision aren't you?

A. Yes, sir.

Q. So that consequently would be necessary that a report be made of the physical and mechanical condition, his personal appearance before it would be possible for
him to earn this last one half of one per cent, would
261 it not?

A. That is right.

Q. Do you have anything to do with vacations of these owner-operators?

A. With what?

Q. With vacations of these owner-operators?

A. Vacations?

Q. Yes.

A. There is nothing stipulated concerning vacations. They can take time off whenever they please.

Q. Well, would you make any objection if an owner-operator of that truck asked to take three weeks' vacation and you were in the busy season?

A. If he wanted to take off that time that was his business.

Q. You wouldn't make any objection of any kind?

A. We might cite the fact that we are extremely busy, but still at the same time we could not tell him that he had to remain on the road.

Q. Now, were you familiar with the logs that the driver kept?

A. Not entirely, no, sir.

Q. Did they ever come into your hands?

A. No, sir.

262 Q. Who had charge of those when they are sent in to the company?

A. Mr. Schurtzberg.

Q. Did you ever see the daily or weekly expense report?

A. No, sir.

Q. Do you know whether any had been made?

A. I know of them, yes.

Q. How long have they been made, do you know?

A. I am sorry I can't answer that, I do not know.

Q. In the event of owner-operator, was there not another situation where you wired him instructions for to pick up a load for a certain destination and assuming also that you had in that particular town or city a resident manager, would instructions also be sent to the manager of that office to supervise the packing or shipping of that load?

A. Oh, no.

Q. Well, wouldn't he on some occasions present himself at the residence of the shipper to see the load was being properly loaded on the van and the customer satisfied?

A. He may from an interest and account standpoint; in other words, we are hauling shipments for many large national accounts and after all if the manager stops

263 at the residence and helps to build up a little more prestige by the fact he is out in the vicinity and he may stop there four or five minutes.

The Court: We will recess for ten minutes.

(Thereupon a recess was had and on the coming in of court after recess the trial of this cause was resumed as follows, that is to say:)

The Court: You may proceed.

Mr. Stephan: Q. Now, Mr. Prante, you testified substantially to making collections by these contract operators. In the event the collection was a C. O. D., that is the operator would collect at the point of destination, would there be any paper or receipt showing that he had received that money?

A. Well, I thought I testified to that before.

Q. Well, you testified, didn't you, it would be either a C. O. D. or by bill of lading?

A. No, sir.

The Court: I think you are confusing him; one of the drivers testified to that.

Mr. Stephan: Q. Are you familiar with the drivers' receipt for money that was received?

A. Then they receipt for money?

264 Q. Yes.

A. Yes, I am familiar with that.

Q. Did you receive a copy of that receipt or did the company receive a copy of that receipt?

A. The company received copies.

Q. Have you ever seen any of those copies?

A. Yes, I have.

Q. Can you state just exactly, if you recollect, how the receipt was made out?

A. Well, it is what we call a freight bill, breaking down various charges.

Q. When the operator received the money, for the money he gave a receipt to the shipper?

A. That is right, with the instructions.

Q. Did he sign that "Greyvan Lines" on that receipt, with his own name underneath?

A. I don't recall, I am sorry.

Q. You don't recollect seeing that?

A. I do know he signed.

Q. Are you familiar with the contract between the operator and the company?

A. Yes.

Q. You have read that, haven't you?

A. Yes, I have.

Q. Are you familiar with the provision, the owner-
26. operator may solicit new business?

A. Yes.

Q. It is true, is it not, they receive commissions for any new business they solicit?

A. That they might develop, yes.

Q. It is true, is it not, they may not load the new business they solicit on to their trucks without express authority from the company, that is, from you as dispatcher?

A. That is right.

Q. That is true?

A. Yes, sir.

Q. Are you familiar with the parking lots that are used by the owner-operators?

A. Yes, sir.

Q. It is true, is it not, that the company presented them with the list designating the parking lots, is it not?

A. For convenience, yes, merely to show them where they have facilities for parking.

Q. Well, who arranges for these parking lots; who arranges for these facilities?

A. That is, sometimes some parking lots are even suggested by the truckmen at outlying points. They may go through a town that has good facilities.

266 Q. Well, before a certain parking lot would be placed on your designated list, some official from the company would go out and inspect that lot, would they not?

A. No, sir, not always. There are many lots that we haven't seen.

Q. Have you had any correspondence with the operators of these parking lots of the accommodations which they furnish the men?

A. Usually correspondence from the owners or operators that a particular station operating, soliciting the stopping of the trucks there because of the facilities they have.

Q. Are you familiar with the gasoline credit cards that the owner operators carry with them?

A. Yes, sir.

Q. It is true, is it not, that those cards are made out in the name of the Greyvan Lines, with the number of the trucks on them, identifying them?

A. I don't recall whether they are made out under the name of the Greyvan Lines. I haven't seen them for quite some time.

Q. Does the company, you recollect, always have the caption on the cab of the tractor as to the empty weight capacity of that unit?

A. That is a requirement of many of the states.

267 Q. Well, have you always had that on your cab of the tractor, of the owner-operators or the company owned units?

A. Yes, in so far as I remember.

Q. As far as you know in your experience with truckmen?

A. Yes, sir.

Q. Are you familiar with the laws of most of the states in relation to what caption shall be placed on the cab of the truck?

A. Yes, sir, I am.

Q. Are you familiar with the laws of the State of Illinois requiring the name and address of the owner of the truck to be on the cab side, on the cab of said truck?

A. There is none that I know of.

Q. None that you know of?

A. No.

Q. Never been any discussion between you and other officials of the company about that regulation?

A. No, sir.

Q. I will show you a photograph marked Government's Exhibit 5 for identification and ask you if you recognize that and tell me what it is.

A. Yes, that is tractor 219.

268 Q. Is that owned by the company, or the owner-operator?

A. That is the owner-operator.

Mr. Stephan: Mark this Government's Exhibit 6 for identification.

(Thereupon the document was marked as requested, Government's Exhibit 6 for identification.)

Mr. Stephan: Q. I will show you Government's Exhibit 6 for identification, being a photograph and ask you if you know what that is?

A. That is Greyvan Lines; that is tractor 219. I cannot identify it.

Q. The one picture was a tractor and the other picture shows the complete unit, tractor and trailer?

A. That is right.

Q. Other than 219 on this truck, how could you distinguish your truck from a company owned truck?

A. By knowing the number of the truck.

Q. Well, if the number wasn't on it, how could you distinguish between a company owned truck or an owner-operator truck?

A. Well, we might identify it by the serial number of the motor.

Q. It would have to be something other than a casual observation to indicate to you who owned that truck, 269 is that so?

A. Yes.

Q. Going back to the parking lots for a moment, do you have a dispatcher or some official of the company in any of these parking lots?

A. Not in the parking lots, no.

Q. You have one in your parking lot in Chicago?

A. We do not have a dispatcher.

Q. Do you have an employee of the company in that lot?

A. We have.

Q. How many?

A. But during the period that is covered, we did not have at that time.

Q. But you do now; you didn't during the period of 1937 to the period of 1942, this period covered?

A. We did not at that time.

Q. Are there any specific instructions given in any particular instance as to the way a particular load should be loaded or unloaded at destination?

A. Only in so far as based on the loads are concerned for the convenience.

Q. Is it particular—well, assume some very valuable shipments, an oil painting or something of that nature, wouldn't you, as dispatcher instruct the owner or 270 owner-operator to load that in a particular way or would you leave it up to his discretion?

A. I don't believe I would tell him how to load it, because I don't know. That is left up to his discretion.

Mr. Stephan: That is all.

The Court: Any re-direct examination?

Re-redirect Examination by Mr. Benoy.

Q. These lots you are referring to are generally lots that are owned by filling stations, are they not, and they simply put them at your disposal with the expectation of getting patronage for gasoline and oils and supplies, is that not it?

A. Yes, sir.

Q. Now the owner operator is not required to have any specific make of truck, is he?

A. No, sir.

Q. He may buy any one he chooses, may he not?

A. That is right.

Q. The only limitation provided in the contract it must have a minimum carrying capacity, is that it?

A. I believe that is right.

Q. As to these photographs here shown you of
271 the van, you don't know whether they were taken lately, do you?

A. Only in so far as the number identifies it.

Mr. Benoy: That is all.

The Court: You say your commission on new business that you testified about, you say these owner operators may solicit new business and get commission on it?

A. Yes, sir.

Q. How about the regular driver working for you, driving for the company owned trucks, may they solicit new business?

A. They may do the same thing.

Q. And they get the same commission?

A. The reason for that being that there are times when a truck may be unloaded at an outlying point. We have run across cases where people come up to them and ask them about our services, et cetera, and they are rather naturally trying to get the business for Greyvan Lines.

Q. And the commission is paid to regular employees, the same commission as is paid to the owner operators on the business?

A. I believe it is [illegible] per cent.

Q. Ten per cent on each case?

A. That is right, of the transportation.

272 The Court: Very well, that is all, sir.

Mr. Benoy: Mr. Schertzberg.

ALLEN F. SCHERTZBERG, called as a witness on be half of the Plaintiff, after having been first duly swor was examined and testified as follows:

Direct Examination by Mr. Benoy.

Q. State your name, please.
A. Allen F. Schertzberg.
The Court:—How do you spell that?
A. S-c-h-e-r-t-z-b-e-r-g.
Mr. Benoy: Q. Your residence?
A. Palos Heights, Illinois.
Q. Have you any connection with the Greyvan Lines Incorporated?
A. Yes, sir.
Q. What is that?
A. Assistant Secretary.
Q. How long have you been connected with the Grey van Lines?
A. Since August 31, 1931.
Q. As what?
The Court: Assistant Secretary, did you say?
273 A. Yes, sir.
Mr. Benoy: Q. What is your particular duti during the period covered by this examination?
A. My duties have never been static, at any time. has been a gradual progression, but during this ti among other things, I handled the matter of bonus award I maintain the record on insurance, accidents and kept contract files and various other duties.
Q. Do you have to do with the owner-operator c tracts?
A. Yes, my files were restricted to that entirely cept for accidents on company owned equipment.
Q. Do you handle the insurance part of your wo
A. Yes, sir.
Q. You say you came with the company when, in 19
A. Yes, sir.
Q. Has the company maintained these character contracts ever since that time?
A. Yes, indeed.
Q. Did it at one time operate entirely on the cont system?

A. Yes, sir.

Q. And when did it start to change?

A. You mean as to date?

Q. Yes, the approximate date?

274 A. Some time in the latter part of 1936.

Q. Does the Company operate partly on the Owner-Operator basis and partly on the employment basis?

A. Yes.

Q. Now the Owner-Operators all owned their own trucks do they not?

A. Yes, sir.

Q. And what is the requirement with reference to the character of the equipment that the Owner-Operator might furnish under this contract?

A. Well, it makes no difference to us what the manufacturer's name is or anything. We are only concerned with whether or not he furnished a vehicle that will meet the requirements of the service for getting over the road.

Q. Now, is there a plan for the uniformity of painting?

A. Yes.

Q. And what is it, tell the Court what it is.

A. Well, the plan is, painting is simply to have attractive advertising that shows the name of the company and indicates sufficient similarity that it can be readily identified as a vehicle in the service of the Greyvan Lines fleet.

Q. Who pays for the expense of painting?

275 A. The truckmen pay the initial expense and we repaint at our expense when it is necessary.

Q. Does your department co-operate with Mr. Prante's Department in the dispatching business?

A. No.

Q. He handles that exclusively; what is the system with reference to the execution of the bill of lading, that is necessary, a bill of lading is necessary under the Interstate Commerce rules, is it not?

A. Yes, the ICC rules and regulations require that a carrier give a bill of lading at the time the shipment is picked up as the shipper's receipt for that shipment.

Q. And that also operates as a contract of carriage—does it not?

A. Yes, sir.

Q. And that form is even prescribed by the Interstate Commerce Commission, is it not?

A. Well, I don't know whether you would say pre-

scribed by them. It is set out in our tariff. The tariff is filed pursuant to the rules and regulations of the Commission and it has been approved.

Q. Now, the charges for services rendered by the company to the shipper are in conformity with that tariff, are they not?

276 A. Yes, sir, we are under compulsion to charge no more or less on this.

Q. Now, what is the class of men you engage as these owner-operators?

A. As in the past.

Q. During the time involved in this investigation?

A. Yes, sir.

Q. Well, how do you get them in the first place?

A. Well, there are various ways. We have advertised and the contract truckmen suggested men that came to us occasionally. When they are here they just come in and make a personal appearance in the office.

Q. In other words, in various ways?

A. Oh, yes.

Q. When you receive an application for contract truckmen, what investigation do you make of him?

A. Well, we are primarily concerned with the character, the honesty and responsibility of the man, we are under compulsion by the I C C regulations with respect to his physical condition and we want to know whether or not he has sufficient intelligence to operate his own business.

Q. Now, do you ask him for references in the first place?

277 A. Yes.

Q. You have a written form of application on which he makes application?

A. Yes.

Q. And does he apply specifically for opportunity to operate under this contract?

A. Yes, indeed.

Q. Now, in connection with that, do you get a physical examination report?

A. Yes, we are compelled to on all new men under the I C C rules and regulations.

Q. Does he submit that report as a part of his application?

A. Yes, sir.

Q. And may they be obtained at any qualified doctor?

A. That is right.
Q. Is he asked for references?
A. Yes, sir.
Q. Do you investigate that reference?
A. Yes, sir.
Q. What generally is the class of men required to operate this character of business in which you are engaged?
A. Well, he has to be a high grade man. He has
278 to be a man that is a self starter. A man who can stand on his own two feet. A man who is resourceful and diplomatic. A man who doesn't hesitate to get his hands dirty and goes out on the job. He must be competent to measure values, to know where he is going in a business way.
Q. And he must be competent to operate the equipment, must he also?
A. Yes, indeed, that is required by the rules and regulations of the ICC.
Q. In other words, he must be a business man in a small way as well as an operator of a truck, is that it?
A. Yes, sir.
Q. Now do you interfere in connection with the truckmen as to where they make their repairs?
A. Not one bit, no.
Q. At their own expense, is it?
A. Yes, sir.
Q. Do some of them arrange for repairs to be made and charge it to their own account by the company?
A. Yes, if there are substantial amounts like major overhauls.
Q. In other words they take their own trucks into the repair shop?
279 A. Yes, sir.
Q. And leave it there for repairs?
A. Yes, sir.
Q. And arrange to have it charged direct to their account at the company, is that right?
A. That is right; the repair shop will usually check with us to see if that arrangement is satisfactory.
Q. Now you carry a deposit against them of $250.00, do you have such a thing, do you not?
A. Yes, sir.
Q. In connection with your truckmen is there any payroll used in connection with them?

A. Not at all.

Q. They are paid solely on the contract basis, are they?

A. Yes, sir.

Q. Is it your business to see that the contracts of the truckmen are performed?

A. Well, that can hardly be imposed on any one individual; that takes in the whole organization; it is a co-operative affair. The truckmen have certain duties and obligations and we have certain duties and obligations.

Q. During this period you handled the bonuses
280 did you not?

A. Yes, sir.

Q. In connection with that, would that require that you check and see that these contract truckmen perform their contract?

A. No, we didn't have such requirement toward the awarding of bonuses, we use our discretion and it was based upon my best judgment on the information which came to us.

Q. And where did you get the information on which to base your judgment?

A. We would get the information from the truckman himself, and we would get the information from the shippers. We may get the information from the branch offices.

Q. Now, before you pay those bonuses you were satisfied the contracts had been diligently carried out, weren't you?

A. Oh, yes.

Q. Is there anything more to say in connection with that than that?

A. The bonus?

Q. With reference to seeing that those contracts are executed?

A. Oh, I can't see anything.

281 Q. Something has been said here about that—well let us cover first these parking lots, what are they?

A. A parking lot is just a commercial establishment who seeks a volume of business or gallonage as they refer to it, they know that a truck, particularly a long distance truck have large capacities, make long trips and they are alert in the promotion of business, trying to get as much as they can in order to attract that business; they often approach them and tell them what facilities they have and want to know, that is, different people approach our men

and want to know if they could arrange to have a man stop out to their places and occasionally the men themselves at some distant places they will tell us that they stopped at a certain place and he has fine facilities and they asked us if we would post that so that they can get the business and in that way—

Q. Do you pay any compensation to the owners of these lots?

A. None whatever.

Q. In other words, they sort of look after their own business?

A. That is right, a business transaction between them and the contractor.

Q. Now, so far as the facilities are concerned, what
282 advantage would that be to the truckman?

A. It would give him a place where he could take his vehicle in off the street without payment of parking fees. We only do that on the assumption that he buys gas from the man in exchange and they have the privilege of giving him the place where he can meet others and fraternize together where they go out and entertain at this place, rather, a place for recreation, it gives him a place where he can meet his fellowmen and seek any instructions for the handling of any shipment, a sort of a headquarters for him away from home.

Q. Do your men sleep in their cabs to a reasonable extent?

A. As one very common practice.

Q. Does that afford a place where they park at night and sleep in their cabs?

A. Yes, sir.

Q. Then with reference to the availability of help for unloading loads and loading loads?

A. Well, the practice has grown up among the local men who went into it, wanted to go in on the lot or have been on the lot where they stay home and they find out where they are from distant points, especially when
283 they go inside and park and they sit around those places, probably looking for jobs and men come there, sometimes they are wanted for loading and unloading, many times it is a point of meeting, a source for labor to be available for them.

Q. Now, as to the rules and regulations of the I. C. C. the contract provides, does it not, they must be observed by the contract truckman just the same as the company?

A. Yes, sir.

Q. What is the reason for that?

The Witness: I don't understand your question.

Q. He knows what the rules and regulations are?

A. Yes.

Q. So, in order to accomplish the contract, he must comply with the same rules and regulations, is that right?

A. Yes.

Q. These bonds are fidelity bonds, are they not?

A. Yes, sir.

Q. And that covers what?

A. It insures the honesty of the men.

Q. You mean making the collections?

A. Yes, sir.

Q. That is, collections on freight?

A. Yes.

284 Q. That is what you referred to as C.O.D., is it. "Collections on Freight charges" is what you referred to as C.O.D.?

A. That is right. That is the common term used.

Q. You have little, if any business where the truckmen collected the value of the articles delivered?

A. I know no instance of that arrangement; it might be well to state also that the Federal Motor Carriers Act itself compels us to collect the freight charges and all accumulated charges before delivering the shipment except if credit has been arranged under the rules which they promulgated.

Q. Then it is a truckman's obligation to collect the freight charges before he delivers the goods?

A. Right.

Q. Unless they are on the approved credit list?

A. That is right.

Q. Those charges run how high?

A. They may run anywhere from $100 to $800 or $900, depends on the size of the shipment, and how many vehicles are involved in the carriage.

Q. Is there more than one vehicle involved occasionally?

285 A. Oh, yes.

Q. And is that load in charge of a particular truckman?

A. The loading itself?

Q. No, no, the transportation as a whole and the obligation, particularly, to collect?

A. Some one truckman is given a freight bill, yes, and it may be any one of them.

Q. Some of these truckmen operate more than one truck, is that right?

A. Yes, sir.

Q. In that system they take and employ their own help to operate these trucks, do they?

A. Yes, sir.

Q. And pay for it, do they?

A. To my knowledge.

Q. At least, the company did not pay it?

A. No.

Q. This parking lot help, the company pays nothing with respect to that help, do they?

A. Not for contract truckmen.

Q. As to your own employees?

A. That is right, if we employed them we paid them.

Q. And he got that help entirely, the truckman, did he?

286 A. Yes, sir.

Q. And did he sometimes get it through a warehouseman?

A. Very frequently, that is a very common practice.

A. In which event he paid the warehouseman, did he?

A. Yes, sir.

Q. And did pay the help direct?

A. No.

Q. That is what is listed under the title "Dummy" in the supplemental returns here, isn't it?

A. I don't believe I would be competent to testify on that point.

Q. Did you take the power of attorney from a truck operator who went out with two or more trucks, who engaged somebody to operate his own equipment?

A. In each case.

Q. That power of attorney authorized you to regard the employe of the truckman the same as if it were himself, is that correct?

A. As far as to the shipments in that vehicle or the handling of that, or of the shipping papers, yes.

Q. In other words, the power of attorney gave to the employee the same powers as he would have under the contract?

A. Yes, sir, that is right.

Mr. Stephan: We object.

287 The Court: I will determine that.

Mr. Benoy: All right, your Honor.

Q. Now, as to the insurance, the Interstate Commerce Commission rules and regulations had to do with respect to insurance, did they not?

A. Yes, sir.

Q. How did they require the policy to be written?

A. Well, they didn't so much specify the reading of the policy, they specified the form of certificate which the insurance company filed with the Commission under which they undertook—that is, the insurance company undertook to make the policy available.

Q. Was it possible to divide the coverage?

A. No.

Q. In other words a fleet policy?

A. That is right.

Q. With the company?

A. Yes, sir.

Q. With no description of the vehicle, is that correct?

A. That is correct.

Q. So that every vehicle operating under the certificate was included under the policy?

A. Yes, sir, the descriptions were waived.

Q. Then did you have to file anything with reference
288 to the various departments of the thirty-eight states in which you operated?

A. Yes, in most states the form of certificates or a certified copy of the policy embracing the statutory form of endorsement was required.

Q. That was in addition to the other?

A. That is correct.

Q. To the main policy?

A. That is correct.

Q. Now, what is the fact with reference to being required also to comply with the regulations of the various commissions in the states in which you operate, the thirty-eight states?

Mr. Miller: We object to that, your Honor.

The Court: What do you want to prove on that point?

Mr. Benoy: Well, you mentioned short hauls that were in doubt, if your Honor please, and what we want to do in this case in regard to that is—

The Court: I will sustain the objection to that.

Mr. Benoy: Q. With reference to these parking lots, did the other moving company or companies engaged in a similar business to yours, also use those same lots?

A. Oh, yes, they did in many instances and still do, competition you see—

289 Q. Is there very much competition in this business?

A. Oh, very much, is right.

Mr. Benoy: You may cross-examine.

Cross-Examination by Mr. Miller.

Q. Mr. Schertzberg, when an Owner-Operator made application, do you have an investigator check up on his character?

A. Did we have an investigation?

Q. Yes.

A. We had an investigating company make a separate independent check in addition to our own.

Q. Did you follow about the same procedure in connection with the employees that operated your own trucks?

A. No, we were not as careful about them.

Q. Well, where did they operate, did they operate in much the same manner as these or in the same territory as the Owner-Operators?

A. Well, now, I would take exception to the same manner. I would say this in answer to you, as far as we are concerned in the operation of the business, it makes no difference whether it is a company vehicle or a contract owned vehicle, any one of them may go to any point in

290 the states in which we serve.

Q. But you made a more complete investigation as to the owner operators?

A. Yes, I think we did, because we had more at stake, we had more to check on.

Q. Now, did you give him the mental examination?

A. I couldn't hear you.

Q. Did you give them the mental examination?

A. No, we did not.

Q. How often did they take the physical examination?

A. Only required by the Interstate Commerce Commission for physical examination at the time we first do that, when a person begins driving in Interstate Commerce. In the State of Tennessee, however, it requires an annual examination, and they agreed to accept the form recommended

by the Interstate Commerce Commission. It is customary for each of the contractors to have a medical examination annually.

Q. You sent the men to a doctor here in Chicago?

A. No, they select their own doctor.

Q. Didn't you recommend a doctor to them?

A. No, sir.

Q. Now, were you in charge, yourself, of making up these bonus awards?

A. I am only in charge of determining whether a
291 bonus should be awarded.

Mr. Miller: That is right.

The Witness: A. At the time I make that, I have no knowledge of the amount of business, the amount of bonus involved and required; notations, if any will show on the bonus statement; then it goes to the Accounting Department.

Q. You have the final determination for the total amount of bonus that is paid?

A. No, I do not. I have to determine whether or not it should be awarded or not. I don't have anything to do with the amount.

Q. Who determines that?

A. I beg your pardon?

Q. Who determines that?

A. That is determined by the Accounting Department, by the amount of business that is done in this period.

Q. Can you state the number of the owner operators or the approximate average number during this period that owned their own trailers?

A. No, I couldn't. It is constantly varying as Mr. Shearer testified we have been in the position where it was all owned by the company to the position where none of it was owned by the company.

Q. Now, do you have anything to do with sending
292 the employees or the owner-operators or your own employees to one certain place for the purchase of uniforms?

A. Did I?

Q. Yes.

A. No.

Q. Most of the uniforms were purchased from Greenberg & Company here in Chicago, is that right?

A. There was no uniform as far as that is concerned:

they put out a garment available to use the same as anybody else.

Q. What does that garment consist of?

A. What does that garment consist of?

Q. Yes.

A. Whatever the man selected.

Q. You mean he is at liberty to select his own?

A. Indeed, yes.

Q. Had the Greyvan Lines, Incorporated lettered on the uniform, did it not?

A. I don't think it does.

Q. You mean the uniform don't contain that lettering?

A. I understand there was no uniform. We have furnished, in many instances, at no cost an emblem showing Greyvan Lines, but it does not say Greyvan Lines, Incorporated.

Q. Did you have anything to do with the preparation of the document known as the manual?

A. I did.

293 Q. I call your attention to page 2 of the Truckmen's Manual, which states the company has adopted a uniform consisting of Greyvan Lines, blue uniform, cap and jacket and trousers and shirt to be worn with a black necktie, belt and shoes, or boots, can you explain that to me?

A. No, I did not write it, I never enforced it. Never took it into consideration in awarding bonuses.

Q. Who is responsible for the insertion of that provision in the Truckmen's Manual?

A. The Manual in the majority was prepared by a group of three men who are no longer connected with the company and it was impractical and was not adhered to.

Q. Who were those men?

A. George W. Healy, John C. Davis and Norman E. Carlson.

Q. The Manual was put out in the year 1940, wasn't it?

A. That is correct.

Q. And given to all truckmen?

A. Yes, and given to them, yes, I think so.

Q. And did you ever issue any instructions to the truckmen, they were no longer to follow this Manual?

A. Not to my knowledge, no.

294 Q. They were never notified, so far as you know, they were not obliged to follow the Manual?

A. No, not to my knowledge.

Q. Now you testified, I believe, that the company started to put on their own operated trucks. I believe you testified it was in 1936, didn't you?

A. That is to the best of my recollection when we started again to use the company owned vehicles.

Q. Are you not mistaken about that, wasn't it in 1938?

A. It could have been.

Q. Could have been, you attended a hearing before the Interstate Commerce Commission?

A. I attended one hearing in Chicago.

Q. The one on obtaining the certificate of publication—

A. On the Grandfather's application, yes.

Q. Were the owner operators required to belong to a labor union?

A. They elected to do so.

Q. No, were they required to do so by your company?

A. Were they required to do so by us?

Q. Yes.

A. They had no requirements other than the contract with the union.

295 Q. Other than your contract with the union?

A. Yes, and their's.

Q. Did you say anything to them at the time they went to work for your company about the union question?

A. Did I?

Q. Yes.

A. Yes.

Q. You called their attention to that fact?

A. I called their attention, we had a union contract.

Q. They would be required to belong to the union, didn't you?

A. Yes, it is a closed shop contract.

Q. That is right. Now, about selecting helpers, isn't it a fact that the owner operators were instructed to select helpers that belonged to the union whenever possible?

A. That is part of the union contract.

Q. Well, you so instructed them, didn't you?

A. I beg your pardon?

Q. You so instructed them, didn't you?

A. Well, we carried out our contract.

Q. Not that, you so instructed them?

A. We carried out our contract.

The Court: Answer the question, did you so instruct them?

296 A. I have no recollection specifically of personally instructing any one to that effect.

The Court: Then answer it that way.

The Witness: That is my answer.

Mr. Miller: Q. Now, did you have a contract with the Standard Spring Company here in Chicago?

A. Not to my knowledge.

Q. Isn't it a fact that you sent the owner-operators to the Standard Spring Company for the purpose of having their trucks repaired?

A. No, I never did.

Q. Did you have anything to do with that branch of the business in the company?

A. Not directly.

Q. Who would be in charge of that work?

A. Well, Mr. Carlson was in charge of that. He is no longer with us.

Q. You don't know what he did in that regard?

A. Only in a general way.

Q. You got information from various sources in making up the bonus rates, did you not?

A. Yes, sir.

Q. And did you have any checkers or investigators out on the highway that checked up the men to find out whether they were complying with their contract?

297 A. No.

Q. You instructed your staff, did you not, in other cities to make reports to you as to the physical appearance of the man?

A. No, I have no recollection of any such instruction.

Q. Do you know whether the company did issue any instructions?

A. No, I do not.

Q. You did make reports to them, didn't you?

A. Oh, yes.

Q. You don't know whether they were ever instructed, to use that repair facility?

A. No, I do not, because there was no formal report for anybody. It is merely correspondence or complaints.

Q. Did you write them to that effect requesting them to send that information in to you?

A. Did I write who?

Q. Your field men?

A. No.

Q. You mean they just sent that in of their own volition without instructions?

A. That is right, and they come from the customers lots of time.

Q. I am speaking about your field men now.

The Witness: All right.

298 Q. You didn't give them any instructions or directions along that line?

A. Not to my knowledge.

Q. Or no other officer of the company to your knowledge?

A. Please state the last question.

Q. Or any other official of your company?

A. No, I don't get the connection.

Q. So far as you know, no officer of your company ever did give them any instructions?

A. No.

Mr. Miller: I think that is all.

The Court: Any redirect examination?

Mr. Benoy: I have one or two.

Redirect Examination by Mr. Benoy.

Q. As to these union contracts, you had two union contracts, didn't you?

A. Yes.

Q. One with respect to your own employees and one with respect to these contract truckmen?

A. That is correct.

Q. This particular one to which I call your attention being a photostatic copy of Government's Exhibit 4,
299 the first page of Article 1, Section 1:

"The company agrees that this agreement is made with the union to cover only such members of the union hereinafter referred to as truckmen or truckman".

And that was made with respect to the truckmen in question, was it?

A. That is correct.

Q. Now the one which I am handing you here dated 5/4/38, is made with respect to your own employees, is that correct?

A. Yes, sir, it specifies it right on it.

Q. And attached to the union contracts was a copy of

the truckmen's schedule, the same as here also attached to the written contract with the truckmen?

A. That is correct.

Mr. Benoy: That is all.

Mr. Miller: Just one more question.

The Court: You may ask him.

Recross Examination by Mr. Miller.

Q. Mr. Schertzberg, did you have anything to do with the schooling that was conducted for the new owner-operators?

300 A. In the period under consideration I don't think we started the school.

Q. Under what period are you talking about?

A. From November 1937 through March 31, 1942.

Q. You mean you had no school during that time?

A. I don't believe so, it is pretty difficult with a fast moving business like ours to remember.

Q. Do you remember when you started the school?

A. No, I don't.

Q. Do you have any records that would show when your school started?

A. No.

Q. Do you have a Claim Department?

A. Did we have?

Q. Yes.

A. Yes.

Q. Was that under your supervision?

A. No.

Q. Who was in charge of that?

A. You mean at that time?

Q. Yes.

A. I believe Mr. Healy was in charge during that period.

Mr. Miller: That is all.

Mr. Benoy: One question, please.

The Court: What are you going to inquire about?

301 Mr. Benoy: I want to inquire about one of the matters he just concluded as to the claim department. I want to know whether that is the claim department in regard to accidents you are referring to or claims with respect to damaged goods.

The Court: You may ask him.

Re-re-direct Examination by Mr. Benoy.

The Witness: What is the question?

Mr. Benoy: Q. I want to know whether that was the Claim Department in regard to accidents that you are referring to or claims with respect to damaged goods?

A. Our definition and understanding of a claim department in our business is the incidental claims to the shipments.

Mr. Benoy: Q. And the question of accident claims with reference to accidents on the highway?

A. That comes in under insurance, in my department.

Mr. Benoy: That is all.

The Court: Q. As an officer of the company, what in your opinion are the relative advantages of these two systems of drivers you have now, the regular driver or employe driving the company's owned equipment and the contract operators driving their own equipment?

302 A. Yes, sir.

Q. From the standpoint of the company now as an officer in charge of their drayage service, what are the advantages to the company?

A. Well, the big difficulty in our business, Judge, is the fact that all of this work is performed away from our premises. We have no opportunity to supervise all the things and by some business standards, our business methods would be very loose, but they are loose because the great scope we cover. Now, a man who merely works for a wage has no investment, he is only concerned with that wage, he doesn't have to pay any expenses of the operation. It is very difficult to find a man that will be loyal to those requirements away from your direct supervision. Our experience has shown this very definitely that a man who has his investment in his equipment has regard for that investment, gives it better care. He has a greater incentive to get the work done, to get to the town or city, to avoid the expense of claims due to his carelessness because he has to assume those. He has a broader grasp on what is a business than the other man. There are so many features that make it definitely advisable that I am frank to say this, however, that if the

303 manpower situation was such as it has been, I think we would have all contract owned vehicles.

The Court: If it were not for the present shortage of men?

A. Yes, the shortage of men.

Q. A sort of a feeder point for the company, you feel it would be more advantageous to have all your business done by contract carrier or contract driver operators than regular employees?

A. Yes, we get better service, give better service to the people and maintain higher standards by men in that capacity.

Q. Now, from the standpoint of a man and the operator, you find it easier to employ an operator that has regular employees than to get a man under contract?

A. That is true sometimes, but today it is not true.

Q. How do the wages compare relative to earnings? Now, some men here yesterday testified they run up, some of them said, one of them said he got $250 to $300, and another said he made a net of four or five hundred dollars a month after expenses?

A. Yes, sir.

304 Q. How does that compare with your six-day drivers?

A. Oh, it is materially more.

Q. How much would an ordinary company driver average, now just take the average case with a reasonable allowance of bonus, not a man who operates his own business, for instance what is the average weekly wage, how much would it be?

A. Well, the pay is $42.50 a week.

Q. That is the base pay?

A. Yes, sir.

Q. Then you had some bonuses?

A. His bonus, however, would be only two per cent, rather three per cent as for the contractor because he has no investment I should say if they worked full time, a good man, he would run $185.00 to around $200.00 a month.

Q. That would be substantially less than that of a contract driver?

A. Yes.

The Court: Thank you very much. Anything further with this witness?

Mr. Benoy: I think that is all.

The Court: Very well, we will hear from the government. You have no further witnesses?

305 Mr. Benoy: I have one more gentleman I want to put on to ask a couple of questions of.

The Court: We will have him at two o'clock.

We will recess at this time until two o'clock.

(Whereupon a recess was had to the afternoon of February 2, A.D. 1944 at 2:00 o'clock P.M.)

306 In the District Court of the United States.

(Caption)

Before:

Hon. William J. Campbell, Judge

Wednesday, February 2, 1944,
2:00 o'clock P. M.

Court met pursuant to adjournment.

Counsel present:

Messrs. Wilbur E. Benoy and George T. Christie, appeared for Plaintiff;

Mr. J. Albert Woll, United States District Attorney for the Northern District of Illinois, Eastern Division, at Chicago by

Mr. John D. Stephan, Assistant United States District Attorney, and

Mr. Homer R. Miller, Special Assistant to Attorney General of the United States of America, appeared for the Defendant.

(And thereupon the following proceedings were had:)

307 The Court: The plaintiff may proceed.

Mr. Benoy: Mr. Foote.

DON FOOTE, called as a witness on behalf of the Plaintiff, after having been first duly sworn was examined and testified as follows:

Direct Examination by Mr. Benoy.

Q. Your full name.
A. Don D. Foote.
Q. Where do you live?
A. Spring Hill, Kansas.
Q. Are you one of the contract truckmen for the Greyvan Lines?
A. I am.
Q. How long have you been since?
A. Since the spring of 1937.
Q. In all that time did you ever wear a uniform?
A. I never have.
Q. Does the company ask you to wear a uniform?
A. Nobody approached me on that subject.
Q. At that time how many kinds of motor vehicle equipment did you own?
A. I have owned four tractors and three trailers, 308 tractor trailers which I own at the present time.
Q. In any of those instances did you ever have any help from the company in financing those vehicles?
A. I never had any assistance whatever from the company.
Q. The certificate of title is in your name for all that equipment?
A. Absolutely, all in my name.
Mr. Benoy: That is all.
The Court: Q. How long have you been with the company?
A. Since 1937.
Q. Since 1937?
A. Yes, sir.
The Court: You may cross examine.

Cross-Examination by Mr. Stephan.

Q. Have you been on one or the other of those pieces of equipment at all times?
A. I have been on each and every one of them some time or another during that period.

Q. Did you have a separate contract with the company?
A. I have had two separate contracts.

309 Q. Do your other men that are employed by you that drive these units, do they wear uniforms?

A. I couldn't answer as to that, but I do not think either one of them ever had a uniform on. One of them may have had one, whether he did or not, I can't remember.

Mr. Stephan: That is all.

Mr. Benoy: That is all.

The Court: You may step down.

Mr. Benoy: May it be stipulated by the government that all taxes assessed by them under Title VIII were paid by the plaintiff and no part thereof was collected from the persons specifically named or the persons mentioned as unknown persons?

The Court: May it be so stipulated?

Mr. Stephan: Yes.

Mr. Benoy: We rest.

The Court: Plaintiff rests. You may put on your defense.

(Thereupon the Plaintiff rests.)

310 (Thereupon the Government, to maintain the issues on its behalf, introduced the following evidence, that is to say:)

Mr. Stephan: Mr. Garrison.

JOE GARRISON, called as a witness on behalf of the defendant, after having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Stephan.

Q. State your name, please.
A. Joe Garrison.
Q. Where do you reside?
A. 3028 Fulton Boulevard, Chicago.
Q. By whom are you employed at the present time?
A. Armstrong Tool Company.
Q. Calling your attention to the date of June, 1939, by whom were you working for on that date?
A. I was working for a brother on the Greyvan Lines.

The Court: I didn't get the date.

Mr. Stephan: June, 1939.

Q. You say you were working for your brother?

A. Yes, sir.

Q. Who did he work for?

A. Greyvan Lines.

Q. In what capacity were you working for your brother?

A. As a helper.

Q. How long did you work for your brother as a helper?

A. 1939 and practically all of 1940.

Q. Calling your attention to December 1 of 1940, I will ask you if there was any change in your employment at that time?

A. Yes, I bought the tractor, made a new contract to work for the Greyvan Lines.

Q. Your brother previously owned a tractor?

A. Yes, sir.

Q. Is that so?

A. Yes, sir.

Q. Did you own the trailer he pulled?

A. No, sir.

Q. Do you know who owned that?

A. The Greyvan Lines.

Q. Did he lease it from the Greyvan Lines?

A. Yes, sir.

Q. On or about December 1, 1940, you purchased the tractor from your brother, is that correct?

A. That is right.

Q. Did you enter into a contract with the Greyvan Lines at that time?

A. Yes, sir.

Q. Going back to the date of June, 1939, you began working for your brother, were you required at that time to take any schooling course at the Greyvan Lines?

A. Yes, I did go to school.

Q. How long did that course last?

A. Oh, I would say five days.

Q. About how many hours a day did you go to class?

A. In the afternoon, three or four hours.

Q. What generally was discussed at these classes, to the best of your recollection?

A. Well, the paper work, we were to do a little me-

chanical end of it, how to handle the equipment and how to handle a shipper.

Q. Was there any discussion as to insurance?

A. Yes.

Q. Were there various papers that were used to make up the work, you were shown how to use those?

A. Yes.

Q. I will show you what has been marked as Government's Exhibit 1 for identification and ask you if you have seen that before?

313 A. Yes.

Q. Did you receive one of these from the Greyvan Lines?

A. I did.

Q. Did you receive this on or about the time you were taking your schooling course?

A. We went out on the trips.

Q. You went out on the trips?

A. Yes, sir.

Q. Was this book used in your schooling course, do you recollect?

A. I can't say.

Q. Well, were some papers or forms of some kind used during your schooling course?

A. Yes.

Q. But you did receive such a manual for trucking before you went out on the road for the company?

A. That is right.

Mr. Stephans: Your Honor, I wish to introduce this Government's Exhibit 1 which has previously been marked for identification.

The Court: Any objection?

Mr. Benoy: Objected to.

The Court: On what ground?

Mr. Benoy: No bearing on the issues. I have four 314 cases which are applicable which held that under the relationship established by contract, you have a right to give such instructions as you care to. The agreement was to abide by any rules and instructions that the company might give them.

The Court: What is your objection, if any, to receiving this in evidence?

Mr. Benoy: It perhaps may be more to the weight of the evidence, if the Court please. I do want to save the point, what is your ruling on it?

The Court: What are the grounds for your objection, are those the grounds?

Mr. Benoy: Yes.

The Court: Overruled. It may be received in evidence and marked Defendant's Exhibit 1.

(Thereupon the document so offered in evidence was marked and received in evidence as DEFENDANT'S EXHIBIT 1, and is in words and figures as follows, to-wit:)

315 Mr. Stephan: Q. For how long a period did you operate this tractor-trailer after you took it over in December, 1940, from your brother?

The Court: To August, 1941?

Mr. Stephan: Some time in August, 1941?

A. Yes, sir.

Q. Did you sever your connection with the Greyvan Lines?

A. I did.

Q. In August, 1941?

A. Yes, sir.

Q. Were you required at the time of entering into this contract with Greyvan Lines to put up the $250 side bond you referred to here before, a fidelity bond.

Mr. Benoy: That fidelity bond was $1,000.

Mr. Stephan: Q. What is this bond, this cash bond?

A. The cash bond was taken out of each monthly statement.

Q. You were also required to give a fidelity bond, were you not?

A. Yes, sir.

Q. That was in the amount of $1,000?

A. I don't know.

Q. Did you have to pay for the fidelity bond, pre-
316 mium on that bond?

A. Yes.

Q. Now, in connection with any damages that might occur on a shipment that you might haul, who were liable for those damages?

A. I was.

Q. Have you had such damages occur in shipments that you have hauled?

A. Yes.

Q. Now, will you state to the court briefly how that was generally handled, that is, whether you reported it to the company or just how it was handled?

A. It was reported on the papers, who returned it from the shipper as a damage.

Q. To the place of destination?

A. Yes, sir.

Q. Did you have any occasion to pay the shipper direct for any damage that might have occurred?

A. I didn't, no.

Q. Well, then is it true to say in every case of damage you had in connection with the shipment you were handling that you did not pay the shipper direct but reported it to the company?

A. All damages I had was settled through the company.

317 Q. If any damages were subsequently charged against you by the company were they deducted from you in that check?

A. From my monthly statement, yes.

Q. Now when you severed your connection with the Greyvan Lines in August of 1941, did you make a full and complete settlement with them at that time?

A. No.

Q. Why not?

A. I got a settlement on my monthly statement, not my $250 I had up on account of other damages that might be pending. They wouldn't give me a settlement on it until the damages were settled.

Q. Well, did you subsequently make a settlement with the company, at a later date?

A. At a later date, yes.

Q. How much later was that?

A. Close to one year.

Q. Why was that settlement held up such a long time?

A. The only think I could find out why, was because settlement of the damage had never been made.

Q. You finally came to an agreement with the company?

A. They mailed me a check for the last settlement.

Q. And you accepted that in full settlement?

A. I did.

318 Q. Now, did you purchase a uniform when you went to work for the Greyvan Lines?

A. I did.

Q. Can you describe that uniform?

A. Pants and a jacket, cap and shirt.

Q. What color was the uniform?
A. Grey.
Q. An entire uniform, jacket and trousers?
A. Yes.
Q. Were you instructed at the time you became connected with the Greyvan Lines on this contract to purchase the uniform?
A. I was given to understand that that was the custom for all the boys.
Q. Well, did you talk with somebody, some officer of the Greyvan Lines about that?
A. I think that was brought up at the time of the schooling.
Q. Do you recall what official that was of the Greyvan Lines that talked to you about that?
A. No, I do not.
Q. Did any officer of the Greyvan Lines tell you where to go and purchase this uniform?
A. Yes.
Q. Where did they tell you to go?
319 A. Greenberg's on State Street.
Q. Then it is true you subsequently went to Greenberg's and purchased a uniform?
A. I did.
Q. Now in connection with this Manual which you just identified, stating you received it, did you read that Manual?
A. Yes.
Q. Did you carry it with you in your truck at all times?
A. Yes, sir.
Q. Were the rules and regulations laid down in this Manual enforced by the company?
Mr. Benoy: Object to it. I object to the testimony as far as he is concerned.
The Court: It is a pretty broad conclusion, yes. I will let you limit him.
A. Not all the rules. I tried to live up to them. I figured they were supposed to be enforced. That is the way I do on any of the rules they give me.
Mr. Benoy: I move that be stricken.
The Court: Yes, it may be stricken.
Mr. Stephan: Q. Well, is it true, when this Manual was handed to you by the company you interpreted that to be an instruction of the company to follow?

320 A. Yes, sir.

Q. Everything that was contained in this Manual?

Mr. Benoy: Object to it.

The Court:- Sustained. He testified that an official of the company told him with reference to it, what his interpretation was isn't proper.

Mr. Stephan: Q. Do you remember any conversation with any official of the company in connection with the time this Manual was given to you?

A. No.

Q. Did any official of the company talk to you about it?

A. I don't think any more than just handed me the book. The rest of the papers we were supposed to have at that time.

Q. Was any reference made to this Manual in your schooling course?

A. That all papers concerned the same thing.

Q. Subsequent regulations which you have seen in this Manual?

A. Yes.

Q. And you were furnished a list of the parking stations, were you not, by the company?

A. Yes.

Q. Were any instructions or regulations given to
321 you or issued in connection with parking in those stations?

A. Well really sort of in parking in those stations, because it was convenient for us and we bought our gas and what service we got to our equipment in the same station.

Q. Did you have a conversation with any official of the Greyvan Lines for the purchase of gas and oil, buying for your equipment at these stations?

A. Well, yes, buy what we could there, really to pay them for our parking, because we didn't pay for parking at those stations.

Q. Were you ever instructed to come into those stations with an empty tank?

A. I dont believe so by any of the Greyvan Lines officials.

Q. Did you employ a helper on your truck?

A. Most of the time I did.

Q. Was he a steady helper?

A. Yes.

Q. How did you pay him?

A. I paid him myself, the agreement between him and I.

Q. Was that helper permitted to drive a truck?

A. When I was on the truck.

322 Q. When you were not on the truck he was not permitted to drive the truck?

A. No.

Q. What regulation was that?

A. That was the Greyvan Lines regulations.

Q. Was there any occasion when you had any difficulty with the company in relation to a helper driving your truck?

A. There was one.

Q. Will you state that occasion?

A. Well, I wanted to let my helper deadhead the truck from Norfolk, Virginia, to Chicago, and I asked Mr. Parenti permission to do that and he wouldn't give it to me, because my helper wasn't approved by the Greyvan Lines.

Q. Why did you want the helper to do that?

A. My father had died and I had to leave. I didn't want to go back to get the truck.

Q. Did you communicate with the company and advise your father had died?

A. I did.

Q. And requested permission that the helper continue?

A. Yes.

Q. They refused to permit that, is that it?

A. Yes.

323 Q. Now as to the routes that you were to follow in handling the shipments, what instructions were given you by any official of the company of the designated routes you were to follow?

A. Not every trip.

Q. Can you recall any incident where they gave you specific instructions as to routes to follow?

A. Yes, to enter those States where we wasn't allowed to haul. I got instructions where to go through Kentucky and what to do and where to go around it.

Q. Why were instructions given as to the State of Kentucky?

A. We were overlength and overweight in that State.

Q. Have you ever stopped in Kentucky with your tractor-trailer?

A. I have.

Q. And what occurred?

A. Fined me for over-length and overweight and made me unload the load.

Q. But the load was subsequently taken out of the State of Kentucky?

A. I hired a local trucker to haul it to the state line.

Q. Then you picked it up from there and carried it from there on?

324 A. That is right.

Q. Who paid the fines?

A. Greyvan Lines paid the fines. I paid it at the time but I was reimbursed on it on my next statement.

Q. Who paid for the loading of this household goods on the other truck carried out of the state?

A. I paid for all of the labor on my truck.

Q. Were your reimbursed by the company for that?

A. No.

Q. Did you have your name and address painted on the cab of this tractor?

A. No.

Q. At any time during your operation?

A. At no time.

Q. Did you have any conversation with Greyvan Lines' officials concerning that?

A. No, I didn't know of any one that had their name on it at the time. I never gave it thought to ever have a conversation of that kind with them.

Q. You never saw any owner-operator truck that had the name and address of the operator on it?

A. No, sir.

Q. Were you required to buy a state license when you entered into this contract?

A. The original state plates.

325 Q. What state did you buy the license in?

A. Indiana.

Q. Where were you residing at the time?

A. Chicago.

Q. Well, why did you buy the license in Indiana?

A. At their request, I don't know for why.

Q. Did you sign the application?

A. Yes, that license was in my name.

Q. And you paid for that license?

A. Yes.

Q. Now, was it necessary for you to have license plate for other states?

A. Yes.
Q. Who furnished those?
A. The Greyvan Lines furnished them.
Q. Did you sign any application for those license plates?
A. No.
Q. They were simply handed to you and carried on your truck, is that right?
A. They were handed to me in the office or mailed out to me to some other destination.
Q. You never signed any application or paid any money for those plates, did you?
A. No, sir.
Q. Now, on your instruction sheet that you received
326 instructing you to pick up the shipments, did that instruction sheet contain the date on which you were to pick up the shipment, the date on which the delivery was to be made, is that true?
A. That is right.
Q. Did you follow these instructions?
A. Yes, sir.
Q. Unless there was a breakdown or something of that nature?
A. Yes, sir.
Q. In connection with loading a shipment held at a point of inception or the unloading of it at a point of destination, did any one from the company come to the premises and supervise the loading or unloading?
A. I find that most of the time the agent or salesman took care of that generally during that some time while I was loading.
Q. Did he make any suggestions to you as to the method and manner of loading?
A. No.
Q. But he would be on the premises?
A. Yes.
Q. Now, during the time you owned this tractor, did you ever do any work and the Greyvan Lines paid you as an employee?
A. Yes.
327 Q. Do you recall an occasion of that nature?
A. I did, one trip, on a company truck, left my truck, went over on the load and I was paid by the Company's check for that.
Q. Whose equipment did you use?
A. Greyvan Lines' equipment.

Q. Where was that, do you recall?

A. Detroit.

Q. Do you recall whether the Social Security tax was deducted or not?

A. It was, yes.

Q. Did you deduct any Social Security tax for the amount paid your helper?

A. No, sir.

Q. Did you ever indicate to the shipper, when you were called to pick up the shipment, that you were the owner of any part of the equipment?

A. No.

Q. Was there ever any discussion between you or any officials of the company as to whether or not the customer had to be apprised who the owner of the equipment was?

A. I don't know by whom, I can't recall of any.

Q. But you did have some such conversation as you recall, is that true?

328 A. Yes, sir.

Q. You don't recall who that was with, though?

A. No, I don't.

Q. Now Mr. Garrison, when you completed the haul and unloaded your furniture at destination, what did you do then?

A. If it was where they had a sub-office I would report to the office, if not I would call the Chicago office or send them a telegram that I was available for another load.

Q. That is where you had an office in the city?

A. Then we would report to that office.

Q. What did you do in case you were advised there was no load that was available?

A. Yes, sir.

Q. Did the company employ dispatchers or employees in any of these parking lots throughout the country, if you recall?

A. Not in the parking lots. The officers originally would bring in the papers to the parking lots without us then having to go in the city to get them lots of times.

Q. In the event you were at a hotel where the company had no branch office, how would you receive your instructions?

329 A. Western Union.

Q. Did you ever have occasion to take any students on your truck for a training course?

A. Yes, sir.
Q. How long was he on your truck?
A. I think about four weeks.
Q. At whose request?
A. Mr. Schertzberg, I believe is the man that asked me to take him.
Q. Did you pay that student?
A. Paid part of his salary.
Q. Who paid the balance, if you know?
A. Greyvan Lines, I suppose.
Q. Did you ever have occasion to lay off or take a vacation during the time on the contract period?
A. Laid off duty at times and at different places, but not to just take a vacation, when I wanted it at any time.
Q. Well, what was the method of doing that? You generally took it up with the dispatcher or how would you arrange that?
A. Yes, I would talk with the dispatcher.
Q. Did you have to get his permission?
A. Yes.
Q. Did you ever lay off and take a vacation without
330 the dispatcher's permission?
A. No, sir, never, not when there was a load available.
Mr. Stephan: That is all.
The Court: Cross-examine.

Cross-Examination by Mr. Benoy:

Q. Did you ever refuse to accept a load when it was tendered to you?
A. I might have threatened to refuse it, but finally wind up by taking it.
Q. You had that right, didn't you?
A. No, sir.
Q. Did you exercise it?
A. No, sir.
Q. On June 17, 1941, did you refuse a load at Dayton, which was tendered you there for Cleveland and deadhead back to Chicago?
A. Yes, sir.
Q. That is right, isn't it?
A. That part is right, yes, sir.
Mr. Benoy: That is all.
The Court: Any redirect examination?

331 *Redirect Examination by Mr. Stephan.*

Q. Have you got any explanation why you refused to take that load?

A. Yes, I told Mr. Parenti over the phone I wouldn't accept any other loads. I was quitting again on my own accord. At the time I quit I was talked out of it and went out for another month.

Mr. Stephan: That is all.

Mr. Benoy: That is all.

Mr. Stephan: Mr. Sahlgaard.

AAGE SAHLGAARD, called as a witness by the Defendant, after having been first duly sworn was examined and testified as follows:

Direct Examination by Mr. Stephan.

Q. What is your name?

A. Aage Sahlgaard.

The Court: How do you spell the first name?

A. A-a-g-e.

Mr. Stephan: Proceed.

The Court: How do you spell the last name?

A. S-a-h-l-g-a-a-r-d.

Mr. Stephan: Q. What is your address?

A. Home address?

332 Q. Yes.

A. 1435 North Hudson.

Q. By whom are you employed?

A. Standard Spring Company.

Q. How long have you been so employed now?

A. About fifteen years.

Q. What is your capacity around there?

A. Well, superintendent of the shop, complete.

Q. How long have you been such?

A. Since I started.

Q. Now, what kind of work does your company do?

A. Well, motor truck maintenance, repairs of springs, manufacturing, et cetera, brake work, and general truck painting, body repairs.

Q. You do painting work also do you not?

A. Yes, sir.

Q. In connection with your work for this firm have you had any occasion to do work for the Greyvan Trucking Company own trucks or owner operated trucks?

A. On both.

Q. On both?

A. Yes.

Q. I will show you two receipts which I will ask to have marked Government's Exhibit 7—

(Thereupon the document was marked as requested, Government's Exhibit 7 for identification.)

—and ask you whether you have seen those before?

A. Yes, sir.

Q. What are they?

A. Maintenance preventative inspections.

Q. How did these come into your hands?

A. The driver of each of these vehicles had them on their trucks complete.

Q. Well, what did they do, did they come in with these sheets and hand them to you?

A. They came in with the book complete and handed it to me at the time we were doing that type of work for them.

Q. And you took the book and tore out these items?

A. No, we assigned men in the shop for this type of inspection. We were going through each inspection and we would complete a carbon copy of each. The shop was furnished with two copies and one was left in the book.

Q. Now, you say these sheets were brought in by the drivers themselves?

A. That is right, sir.

Q. And did you check each item on the sheets?

A. I didn't, personally.

Q. I mean some one in your concern did?

A. That is right, sir.

Q. What was done after the inspection of the truck was made; it was checked against these sheets?

A. Well, after the repairs were required we checked them individually. If he was available, we called the Greyvan Lines' office for further instructions, if there were no repairs necessary, none were made.

Q. In checking these sheets did you make any distinction between company owned units and owner operator units?

A. None, other than mark the number of each vehicle.

Q. You did mark the number of the vehicle to identify it?

A. We did put the individual name on each.

Q. Did the Greyvan Company ever give you authority to do any work on a job as the result of the checking of these particular sheets where you knew the unit was owned by an owner-operator?

A. Not in so many words I don't believe, no.

Q. Never had any direct instructions?

A. No direct instructions. Legitimate repairs were made on individual owned and—

Q. Did the company generally send over an order before you commenced your work?

A. In some cases, some times some of these peo-
335 ple, some of these did nothing at all, and sometimes the Greyvan Lines, because the owner himself, if he was there would give us the instructions.

Mr. Stephan: Your Honor, I wish to introduce this as Government's Exhibit 7.

Mr. Benoy: I would like to see it.

The Court: Show it to counsel.

Mr. Benoy: What are you offering, just the form?

The Court: Any objection?

Mr. Stephan: I think not.

The Court: It may be received in evidence and marked Government's Exhibit 7.

(Thereupon the document was marked as requested Government's Exhibit 7 and is in words and figures as follows, to-wit:)

336 The Court: That is just one sheet?

Mr. Stephan: Two sheets which I will clip together, both being the same thing.

Mark this Government's Exhibit 8 for identification.

(Thereupon the document was marked as requested, Government's Exhibit 8 for identification.)

Mr. Stephan: Q. I will show you what has been marked Government's Exhibit 8 for identification and ask you if you have seen that before?

A. Yes, sir.

Q. What is that?

A. That is the physical inspection, such as the name on it, referring to the equipment that was used in the vehicle and the outward appearance and condition of the vehicle.

Q. And how did you have occasion—did you have occasion to use those forms?

A. The inspection—
Q. How did those forms come in to you?
A. They were in the same book.
Q. They were in the same book, Exhibit 7?
A. That is right.
Q. Did you make an inspection, indicating the
337 various items of it?
A. Yes, sir.
Q. Now I call your attention particularly to this exhibit and ask you if this exhibit does not refer to the inspection of a trailer of the company or a truck distinguished from the mechanical condition of a tractor?
A. This is the mechanical—
Q. This is an inspection of the interior?
A. Of the equipment that is used in the truck. In other words for their type of work.
Q. In making out the physical inspection report, did you make any distinction between the company owned trailer or the owner-operator trailer?
A. None other than the identification of the van or the owner.
Mr. Stephan: I wish to offer this as Government's Exhibit 8.
The Court: Any objection?
Mr. Benoy: No.
The Court: It may be received.
(Thereupon the document so offered in evidence was marked and received in evidence as Government's Exhibit 8 and is in words and figures as follows, to-wit:)
338 Mr. Stephan: You may cross examine.
Mr. Benoy: May I have those forms, please.

Cross-Examination by Mr. Benoy.

Q. When was it you were to do this particular character of work?
A. When?
Q. Yes?
A. As close as I can remember I would say around 1938, 1937 possibly, I don't think much after 1939.
Q. You have indicated that it was a short life proposition?
A. That is right, sir.
Q. Why was it abandoned, do you know?

A. Well, the individuals themselves, some of them didn't want it, and it was dropped of their own accord, and because of other reasons.

Q. This was a part of the safety program, was it not?

A. As I understood originally, yes, sir.

Q. Vans were checked either by you or by somebody else?

A. I imagine they did arrive at whatever period of time, that was some time, between the time of the
339 original agreement, after thirty days.

Q. That was because you were checking the whole vehicle, for what purpose?

A. For safety inspection and also to prevent road failures.

Q. Failure while the truck was out on the road?

A. That is right, sir.

Q. You were checking that for the purpose of preventing breakdowns?

A. Preventing failures.

Q. By "failure" you mean breakdowns on the highway?

A. That is right.

Q. So that you wouldn't have to go out on the highway and repair them?

A. That is right.

Q. Do you remember about when it was this was discontinued?

A. No, I can't definitely say.

Q. Now, of your own knowledge do you know whether there was a difference in reference to charges?

A. No.

Q. On those that belonged to the owner-operators, do they belong to the company?

A. No, sir.

Q. That is as far as your charges were concerned
340 there was no difference?

A. There was first a figure originally agreed on for making this inspection to cover the cost of labor and the cost of overtime and the man's time, or any other time.

Q. In other words, no repairs were made on this proposition?

A. No, sir.

Q. Now, suppose that you found repairs were necessary

and the van belonged to the owner-operator, then what was done?

A. In most cases the operator was there and told us to proceed or not.

Q. Would the owner operator himself bring it in, for your prevention test?

A. Yes, sir.

Q. Do you know whether the owner operator was charged for it or not?

A. I know for this reason to save him that particular money in that statement I checked the invoice to the Grey-van Lines to verify the amount.

Q. In other words, they paid them on their statement?

A. That is right.

Q. They came to you to see whether they were being charged more than you charged?

341 A. That is right.

Q. And what was the result of that?

A. In some cases—in all cases the statement corresponded to the invoices to the Grayvan Lines.

Q. So that of your own knowledge you know these inspections were charged to the owner-operator?

A. That is right.

Q. The owner-operators themselves brought the item in to you to inspect?

A. The owner-operator did.

Q. In many of the instances you know that he did personally bring them in?

A. In most cases.

Q. If they didn't there was some reason why they didn't.

A. They were usually not in the city.

Q. By that you mean usually not in the city, the owner-operator?

A. The owner-operator.

Q. You were going out to— strike that. You were going ahead with the check?

A. That is right.

Q. Now this Government's Exhibit 8 which is the physical inspection report pertains to the materials inside of the van?

342 A. Yes, sir.

Q. Or inside of the tractor, whichever it was?

A. That is right, yes, sir.

Q. And you were inspecting to see they were all there?

A. That is right.

Q. In the event you didn't find it on there, what did you do?

A. I might say I didn't know whether it was all there. I would report what was in the van. I had no previous record for listing the equipment. I didn't know, in other words, whether they had ten pads or one came in or not.

Q. The owner-operator got one?

A. The original sheet was left in the book, given back with the book in each truck.

Q. So that the owner could see it?

A. Yes, sir.

Mr. Benoy: That is all.

The Court: Any re-direct examination?

Mr. Stephan: That is all.

The Court: That is all, you may step down.

Mr. Stephan: Your Honor, the government has no more witnesses, but we have some exhibits 2 to 6, we have offered for identification.

Mr. Benoy: Now, counsel has asked us to produce 343 in court a copy of the application for identification. I assume you want a sample copy.

Mr. Miller: That is right.

Mr. Benoy: We will ask to withdraw this and ask leave to substitute a photostatic copy.

The Court: Leave granted.

Mr. Benoy: I have no objection to it being introduced.

Mr. Stephan: I wish to introduce Government's Exhibit 2 which has formerly been identified as Government's Exhibit 2, being the advertisement in the Red Book for August of 1937, with leave of court's permission to substitute a photostatic copy of said page.

Mr. Benoy: I will object as not having in the least any probative effect.

The Court: What do you want to bring out? Give it to the marshal, and let me look at it. What is it you want to bring out by this exhibit?

Mr. Stephan: Your Honor, we have some authorities later, of course, which we will cite in our brief showing the indication of these advertisements here are to the effect that the company owns and operates, holds itself out to the public as an operator of all of these trucks.

The Court: The Plaintiff's evidence is to that effect, they solicited business.

344 Mr. Stephan: Yes. Indicating they hold themselves out to the public as owners of the vehicles.

The Court: You tell me what you want, tell me yourself and I will get it quicker.

Mr. Miller: The Supreme Court in an Iowa case decided that case very largely on the strength of a similar advertisement of this character.

The Court: Well, do you contend that advertisements of this character are material to show whether or not these individuals are independent contractors or employees?

Mr. Miller: It shows the company is the employer, naturally so.

The Court: How does the advertisement show the company is the employer?

Mr. Miller: Well, in view of the fact that it states it is a national organization. It holds itself out as an organization. It is doing business itself, not doing it through independent contractors.

The Court: Well, I am inclined to agree it doesn't have a great deal of probative force, but I don't see that it will do any harm.

Mr. Benoy: Except it encumbers the record and somebody may have to pay for producing it.

The Court: How many of these did you put in?

345 Mr. Stephan: Just two, your Honor. The next one we are going to introduce will indicate better our point.

The Court: Let me see it, please. I will admit those. I don't know what force they have. You can argue the point in your brief. This is Exhibit 2 and Exhibit 3?

Mr. Stephan: Yes, your Honor.

The Court: They may be received in evidence and leave to substitute photostatic copies for the particular pages involved.

(Thereupon the documents so offered in evidence were marked and received in evidence as GOVERNMENT'S EXHIBITS 2 and 3 and are in words and figures as follows, to-wit:)

346 Mr. Stephan: Your Honor, we wish to introduce Government's Exhibit 4, being the union contract.

The Court: Any objection?

Mr. Benoy: Yes. We object to that because it certainly can't be introduced against us on the theory of an admission against interest.

The Court: Any other objection?

Mr. Benoy: That is all.

The Court: Overruled. It may be received in evidence and marked Exhibit 4.

(Thereupon the document so offered in evidence was marked and received in evidence as GOVERNMENT'S EXHIBIT 4 and is in words and figures as follows, to-wit:)

347 Mr. Stephan: I wish to introduce Government's Exhibit 5, a photograph previously marked for identification.

The Court: Introduce both of them, 5 and the next one is 6. Any objection?

Mr. Benoy: When was that taken?

The Court: That is a good question.

Mr. Stephan: I can tell you from memory, about sixty or ninety days ago.

Mr. Benoy: It wasn't during the period of time, I would like to see if there is any difference, if your Honor please, there appears to be no substantial difference. The objection I might have to it is the fact that all of the deductions are not what seem to take—I assume, your Honor has that in mind, the general outline of the contour.

The Court: Yes, very well, what are they 5 and 6?

Mr. Stephan: 5 and 6, if your Honor please.

The Court: Exhibits 5 and 6 will be received in evidence. Any other exhibits.

(Thereupon the documents so offered in evidence were marked and received in evidence as GOVERNMENT'S EXHIBITS 5 and 6 and are in words and figures as follows, to-wit:)

348 Mr. Miller: Yes, your Honor, we offer in evidence Government's Exhibit 9 which is a certified copy of an application filed by Greyvan Lines, Incorporated, before the Interstate Commerce Commission.

Mr. Benoy: Their application, continuing under the Grandfather clause.

Mr. Miller: That is right. That in itself would not

be asked for admission but we do bring it up with other data we have to have to make a complete picture.

The Court: Do you have the copies?

Mr. Miller: No, I am sorry, your Honor, I have just got this before I left Washington. I only had one set of copies.

Mr. Benoy: The only objection I have to it it encumbers the record.

Mr. Miller: That is true, your Honor, it is larger but it has to do with the matters involved.

The Court: Suppose you offer all you have and maybe then I can rule more intelligently after you have offered all the documents.

Mr. Miller: We offer in evidence Government's Exhibit 10 which is an exhibit attached to Government's Exhibit 9, attached in the application which was filed before the Commission. Now, there were a large number of similar exhibits attached to the application so that in 349 order to not encumber the record we only had a copy made of one.

The Court: What does that purport to show?

Mr. Miller: That is a waiver by one of the so-called owner-operators and isn't that true, I believe that is what it is, it was filed with the petition before the Interstate Commerce Commission.

The Court: A waiver of an owner-operator, a waiver of what?

Mr. Miller: A waiver of his rights to secure a permit.

The Court: The owner operator's rights?

Mr. Miller: Yes.

The Court: All right, offer the rest of the documents and I will hear what you have to say to all of them.

Mr. Miller: We offer in evidence Government's Exhibit 11, which is a true copy of a report and order by the Examiner of the Interstate Commerce Commission on the petition filed.

The Court: Of the Examiner's Report and order?

Mr. Miller: Of the Examiner's Report and order recommended by Mr. Garafolo, the Examiner on April 5, 1939.

The Court: What does that offer to prove?

Mr. Miller: Well, the materiality of that is indi-
350 cated by Exhibit number 13.

The Court: Offer all of them and I will hear you on all of them.

Mr. Miller: Exhibit 12 is a certified copy of the transcript of the stenographic notes of the oral arguments before the Interstate Commerce Commission made by Mr. Bowen, Attorney for the Greyvan Lines, Incorporated, referring to his position that would set forth among other things concerning the company's position as to the control exercised over the owner-operated vehicles. He stated the owner-operators were employees of the company and we contend that is admissible along with the other evidence. The evidence shows Mr. Schertzberg and Mr. Shearer were present. The allowing of this shows that their counsel made that presentation to the Commission.

Now, Exhibit 13 is a true copy, it is certified copy of the exceptions filed by the Greyvan Lines, Incorporated, to the report of the Examiner which was filed April 22, 1939 and filed by the Greyvan Lines, Incorporated, and we contend while much contained in this is not material, this particular issue relates to other things in the portion of this report which are very material and contains statements by the
351 Greyvan Lines which were admissions against their interests in which they specifically state that they exercised control over their employees. This report, if it becomes necessary I can show your Honor exactly what it contains.

The Court: Give me the next document.

Mr. Miller: The last was Government's Exhibit 14 is a certified copy of a report and order of the Commission filed and entered on March 15, 1942, in connection with the application of the Greyvan Lines, Incorporated, certificate of public convenience and necessity, and that is a copy of the Commission's report and audit, a certified copy.

Now, in that connection I might say that possibly that the Court might take judicial notice of that without having it introduced in evidence, but it will be convenient for the Court to consider and I have decided to offer it for that reason.

The Court: 9 to 14 constitutes what, in your opinion? That they are material documents from the files of the Commerce Commission, is that right?

Mr. Miller: That is right.

The Court: Concerning the items under investigation here?

352 Mr. Miller: That is right.

If your Honor would give me leave to point out—

The Court: No, I will hear the objections first, what objections, if any, do you have?

Mr. Benoy: Your Honor, they are perfectly new to me. I never saw them before. They are proceedings on the application under the Grandfather's clause before the Interstate Commerce Commission.

The Court: That is what counsel says.

Mr. Benoy: Now, I don't see what relevancy they have here on the question of whether or not these owner operators are employees or independent contractors of the Greyvan Lines.

The Court: Well, I think on an issue of this kind if the company is taking an inconsistent position in two separate tribunals of the government it is material to have that called to the Court's attention. Now, whether or not he is just inconsistent, or whether it is an entirely different position taken here, I can't tell until I review the documents. And I am not going to do that until I review the evidence, until I get all of it and get your briefs in. Then I will tell you as to the materiality.

Mr. Benoy: I can't tell either until I examine
353 them.

The Court: This is something you are going to discuss in your briefs. If you think it doesn't prove anything I hope you will tell me that in your briefs. Now, if it is not admissible, all of them, but they are apparently properly certified, I assume. All right.

Mr. Benoy: I am not objecting on that account, of course.

The Court: You have your objections to all the rulings of the Court. The Government maybe takes the position that the plaintiff has taken before the Interstate Commerce Commission—

Does the Government represent that the position taken by the plaintiff before the Interstate Commerce Commission is inconsistent with the position taken by the plaintiff here?

Mr. Miller: Yes, we do.

The Court: Relative to the status of these owner-operators?

Mr. Miller: Yes, we do.

The Court: Is that the purpose you are offering 9 to 14?

Mr. Miller: Yes.

Mr. Benoy: May I ask if that was taken preceding
354 this period or not?

The Court: That is a good question.

Mr. Miller: That was taken on April 22, 1939.

The Court: 1939, within the period under investigation.

Mr. Benoy: As of what date, with respect to operations as of what date? The operations under contracts were in 1935.

Mr. Miller: That is partly under consideration from 1932 to 1938, the Examiner's report shows that the evidence in this case shows, however, that the operations were under contract substantially the same—

The Court: We are concerned at present between 1937 and 1942.

Mr. Benoy: Well, that is right.

The Court: What period did the Examiners investigate?

Mr. Miller: Well from 1932 to 1938.

The Court: 1932 to 1938. Then only two years of this time are applicable.

Mr. Miller: That is right.

The Court: This evidence relates to those two years.

Mr. Miller: It does relate to those two years; furthermore, the evidence shows the contracts were the same
355 these two years.

The Court: If you find it does not you point it out in your brief, counsel. 9 to 14, inclusive will be received in evidence on behalf of the Government.

(Thereupon the documents so offered in evidence were marked and received in evidence as GOVERNMENT'S EXHIBITS 9 to 14, and are in words and figures as follows, to-wit:)

356 Mr. Miller: We have one more exhibit, 15. We offer in evidence as Government's Exhibit 15 the application for the plates which were just furnished me by counsel.

Mr. Benoy: No objection to it.

The Court: It may be received and marked Government's Exhibit 15.

(Thereupon the document so offered in evidence was marked and received in evidence as Government's Exhibit 15 and is in words and figures as follows, to-wit:)

357 Mr. Miller: May it be stipulated that they signed—

Mr. Benoy: It may be stipulated that this application and other similar applications were signed and sworn to by an officer of the Greyvan Lines, Incorporated.

The Court: Anything further on the part of the Government?

Mr. Miller: I believe that is all.

The Court: Defendant rests?

Mr. Miller: Yes.

(Thereupon the defendant rests.)

358 The Court: Any rebuttal evidence?

Mr. Benoy: May I have a moment?

The Court: Yes.

Mr. Benoy: If your Honor please, may I make this reservation? I have had no opportunity for going into this. I don't know whether anything else should be produced in connection with it or not, that is, in the way of documentary evidence and if I find there is additional evidence that should be supplied in connection with this particular matter I hope I may have an opportunity of putting it in, otherwise we are ready to close.

The Court: Well, I can't leave the gate open for you. If you find there is something you think should be introduced on the trial and you want to come in on a motion at that time I will rule on it. Now is your chance for rebuttal if you have any. Do you want to offer any at this time?

Mr. Benoy: I say I have had no opportunity at all. The government hasn't supplied me with any information about this thing.

The Court: I understand that. If you want to offer any rebuttal offer it now.

Mr. Benoy: None at this time, your Honor.

The Court: Very well. Does the plaintiff rest?

359 Mr. Benoy: We rest then.

The Court: The plaintiff rests. Let the record show.

(Thereupon the plaintiff rests.)

360 The Court: Now the date for briefs, how much time does the plaintiff want?

Mr. Benoy: In view of the necessity of going through all this material that has just been introduced I think I better take some time.

The Court: Whatever you think is necessary.

Mr. Benoy: I want to say to you I have already presented a brief in a case just exactly similar as this case in the District Court at Toledo and that Court found in my favor. It is now pending in the United States Circuit Court of Appeals for the Sixth Circuit. I have that brief prepared and I can leave a copy of it with your Honor at the present time if you desire it.

The Court: No, I will not read briefs piecemeal. We will get all the briefs in and I will review the evidence and the briefs together. If you want to attach that to your other brief you may do so if you care to. I want a brief in this case. I want your argument in this case prepared at the same time. I will give you all the time you want. How much time do you want for briefs and argument?

Mr. Benoy: May I ask how soon I will be able to get the record, particularly the copies of this material, and I will prepare a copy of everything.

361 The Reporter: I will complete the record Saturday of this week.

Mr. Benoy: All right.

Mr. Miller: These will be right in the record and you can look at them at any time.

Mr. Benoy: I think maybe it will take thirty days.

The Court: Thirty days you think will be sufficient?

Mr. Benoy: Yes.

The Court: Then the brief and argument of plaintiff will be on file with the clerk and a copy given to defendant's counsel within thirty days. Now, how long does the defendant want to answer the brief?

Mr. Miller: Thirty days thereafter.

The Court: Thirty days. And replication to their Answer and brief how long?

Mr. Benoy: Say fifteen.

The Court: Fifteen days.

Mr. Benoy: And if will be in quicker if I can get it in.

The Court: Then the record may show thirty days and thirty days and fifteen days for all briefs and arguments.

All exhibits received in evidence will be impounded
362 by the clerk. Leave to the parties for either side to withdraw them at this time or at any time hereafter upon receipt to the clerk, to be used in preparing their briefs. Leave to all parties to file photostatic copies in lieu of the originals. Any document offered and received in evidence, leave will be given to both parties to furnish a photograph, photostatic copies of all exhibits received in evidence.

Is there anything further necessary?

If not, the cause will be taken under advisement.

(Which was all the evidence offered or other proceedings had on the trial of the above entitled cause, to date.)

* * *

93 And afterwards on, to wit, the 27th day of July, 1944, there was filed in the Clerk's office of said Court a certain Memorandum of the Honorable William J. Campbell in words and figures following, to wit:

94 IN THE UNITED STATES DISTRICT COURT.

(Caption—43-C-10 & 276)

MEMORANDUM.

CAMPBELL, District Judge.

After a review of the briefs and arguments of counsel, the stipulation and exhibits offered at the trial, and my own notes of the evidence taken at the trial, I find the issues for the plaintiff.

Counsel for the plaintiff may prepare and file with the Court, in writing, within twenty days from the date hereof, proposed findings of fact, conclusions of law, and a draft of a form of judgment, consistent with the views herein expressed, delivering copies thereof to counsel for the defendant. Within twenty days of the receipt of such copies counsel for the defendant may prepare and file with the Court, in writing, his observations with reference thereto and suggestions for the modification thereof, delivering a copy of such observations and suggestions to counsel for the plaintiff. Within ten days thereafter counsel for the plaintiff may present to the Court, in writ-

ing, his reply to such observations and suggestions. Whereupon, the matter of making findings of fact, conclusions of law and a judgment herein will be taken by the Court without further argument.

CAMPBELL,
Judge.

July 27, 1944.

95 And afterwards on, to wit, the 9th day of September, 1944 came the Defendant by his attorneys and filed in the Clerk's office of said Court his certain Observations With Reference to Proposed Findings of Facts and Conclusions of Law and Judgment Decree Submitted by Plaintiff and Suggestions for Modification Thereof in words and figures following, to wit:

96 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—43-C-10 & 276)

OBSERVATIONS WITH REFERENCE TO PROPOSED FINDINGS OF FACTS AND CONCLUSIONS OF LAW AND JUDGMENT DECREE SUBMITTED BY PLAINTIFF AND SUGGESTIONS FOR MODIFICATION THEREOF.

Carter H. Harrison, defendant in the above-entitled cases, pursuant to the direction of the Court in memorandum opinion filed herein, without waiving objections to each and every proposed finding of facts and conclusion of law and the proposed judgment as tendered and filed by plaintiff herein, hereby submits the following observations with reference to said proposed findings, conclusions and judgment with suggestions as to modification thereof.

JUDGMENT ENTRY.

The proposed entry directing payment of the judgment out of the proposed appropriation from the Treasury of the United States is incomplete in that it does not provide in accordance with Section 842, Title 28, U.S.C. that no execution shall issue against the defendant in these cases.

97 PROPOSED FINDINGS OF FACTS.

11. Objection is made to the sentence beginning with "The word 'dummy'" because there is no evidence in the record that the names of these employees were unascertainable to plaintiff.

12. The statements in the first sentence are not supported by any competent evidence. There is no evidence that plaintiff operated under "a system" from 1930, to the present time, as is implied. Neither is there any competent evidence showing that the truckmen were all residents of the states in which plaintiff did business. The statement that it was impracticable for plaintiff to exercise control over the means and manner of the truckman's performance is not sustained by the evidence. Further this is immaterial as it is the right of control that governs rather than the actual exercise thereof. The statements relative to operations under the contracts are incomplete, inaccurate and misleading. The statement that all costs of operations were paid by the truckmen is an incorrect statement as the evidence shows that the plaintiff paid the cost of permits, certificates and franchise.

14. Objection is made to the statement that the method used by the Collector in arriving at the average wage was arbitrary and illegal. The evidence shows that the amounts of wages were not fixed in an arbitrary manner by the Collector but were determined after an agreement had been entered into between Deputy Collectors and Mr. Shearer, taxpayer's treasurer. Mr. Shearer testified that the amounts determined were fair although liability was denied. (Tr. 89.)

98 15. Objection is also made to the statement that the determination of the helpers' wages was arbitrary and illegal. The objections are made for the same reasons as set out under 14. The helpers' wages were determined on the basis of an agreement as to the amounts between taxpayer and Collector. There can certainly be nothing arbitrary about a determination by the Commissioner or Collector as to the amounts of wages where these amounts are agreed to by plaintiff.

16. This is a misleading and inaccurate statement and not supported by the evidence. Moreover, it is a conclusion of law rather than a finding of fact. The evidence shows only one instance of a partnership having a truck-

man's contract. See Government's brief (pp. 36-37). As we pointed out it is wholly immaterial whether some of the employees had a partnership relation among themselves. There is no legal reason why partners may not become employees of another firm or corporation.

19. There is no competent evidence from which the court can determine that each truckman carried an average investment of $5,000. The evidence does not show that the vans bore all the designations required by the federal and state regulatory acts of the residence of the owners. As a matter of fact the evidence showed at least one violation where the name and address of the owner operator was not inscribed on the cab or tractor.

22. This paragraph should be stricken because there is no competent evidence showing that the contract was adhered to by all the parties involved.

23. This paragraph should be stricken because there is no evidence showing that the identical contract was used prior to the advent of the Social Security Act. The other contracts are not before the Court and the evidence does not disclose their contents.

24. That portion of the paragraph beginning with "The degree of control, etc." should be stricken in its entirety since it is based entirely on matters not established by competent evidence.

25. The entire paragraph should be stricken. The amounts were fixed by agreement between the Collector and plaintiff's responsible officer and were therefore not determined in an arbitrary manner. The Collector had a reasonable basis for arriving at the amount of wages and the amount of [illegible] since the plaintiff had agreed that although it contested the liability the amounts allocated to wages were fair. The last two sentences represent conclusions and are capable of bearing different constructions. It is true that no wages were directly paid to helpers by plaintiff but it is our contention that the wages were paid to helpers through the truckmen who were under plaintiff's direction and control and that it is not necessary that the wages be paid direct to the helpers.

26. There is no evidence to sustain this paragraph and the same is wholly immaterial and beyond the issues in the case. The same should therefore be stricken.

100 CONCLUSIONS OF LAW.

5. This should be amended to provide that no execution shall issue against the defendant herein and that the judgment shall be provided for and paid out of the proper appropriation from the Treasury of the United States.

J. Albert Woll,
United States Attorney.

101 And afterwards on, to wit, the 26th day of September, 1944 came the Plaintiff by its attorneys and submitted in the Clerk's office of said Court a certain Answer to Defendant's Observation, etc., in words and figures following, to wit:

102 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—43-C-10 & 276)

ANSWER OF PLAINTIFF TO DEFENDANT'S "OBSERVATIONS WITH REFERENCE TO PROPOSED FINDINGS OF FACTS AND CONCLUSIONS OF LAW AND JUDGMENT DECREE SUBMITTED BY PLAINTIFF AND SUGGESTIONS FOR MODIFICATION THEREOF".

It would seem that the Government counsel in this particular case are the only ones still interested. The Department of Justice, in pending Ohio cases, has directed the Internal Revenue Department to make administrative refunds. The making of such administrative refunds is now in progress. A copy of the order of the Internal Revenue Department reversing its previous stand, on the strength of the decision in the Mutual case, is attached hereto. We, therefore, do not quite understand why counsel for the Government are burdening the court with these additional matters in view of the attitude so taken by the Internal Revenue Department. We feel it not out of place to call the court's attention to this phase of the matter.

We submit the following with respect to the observations referred to:

103 WITH RESPECT TO JUDGMENT ENTRY.

The provisions of Title 28, § 842, providing that when the court certifies that there was probable cause for the act done by the Collector, or that he acted under the direction of a proper officer of the Government, "no execution shall issue against such Collector" but that the amount so recovered shall, upon final judgment, be provided for and paid out of the proper appropriation from the Treasury is self-executing. There is no occasion or need to insert in the entry a provision "that no execution shall issue against the defendant in these cases." Such a provision constitutes no proper part of the findings or of the judgment entry. The statute makes full provision.

WITH RESPECT TO THE OBJECTIONS TO THE PROPOSED FINDINGS OF FACTS:

We answer with respect to the paragraphs objected to in the order in which objection has been made.

11. There is ample evidence that the names of these so called employees were unascertainable by the Collector. Because of the absence of any records with respect to the employees of the independent contractor (the truckmen), the Collector was required, in Exhibit G, Sheet 26, to write the word "Dummy" in the column of the enforced return headed "Name of Employees". The only reason he did so was that the names of the alleged employees were unascertainable. Greyvan had no record with respect thereto. They were not Greyvan's employees and there was no occasion or opportunity to keep such a record. They were paid by the truckmen employing them and were in all respects the truckmen's employees and no report whatsoever was made of their employment to Greyvan Lines. They were not only unascertainable by the Collector but by the plaintiff as well. See the Agreed
104 Statement, Paragraph 7, also Paragraph 8 (b), where the Government's counsel stipulated that these persons were "unknown helpers, so used by the truckmen". See also Shearer's testimony p. 76, 77, 82, 83.

It was because of the fact that the names and addresses and the amounts paid by the truckmen to these persons were unascertainable that the Collector was compelled to arbitrarily arrive at the amount of alleged wage to be

put into the enforced return in the column, "Correct amount of Wages", as stipulated in Paragraph 8 (b).

It will be noted that the Government's counsel still notwithstanding the Court's finding, insist on calling these persons "employees" of Greyvan.

12. The whole of the record suports the requested finding. These contracts have been made ever since Schertzberg's connection with the company in 1931. (p. 134) See particularly Mr. Shearer's testimony at page 75 and Mr. Schertzberg's testimony at pages 153 *et seq.*; the whole of the testimony of Mr. Prante, pages 95 *et seq.*, the contract itself, plaintiff's Exhibit A and particularly Government's Exhibit 14 which it introduced over our objection. This Exhibit gives the entire history of the operations of the company since organization.

Permits and license fees, while a cost chargeable to the business as a whole, are no part of the cost of the "operation" of the equipment owned by the truckmen. Those matters are taken care of in our proposed findings, Paragraph 17.

The statement that our proposed findings "relative to operations under the contracts are incomplete, inaccurate and misleading" is entirely unjustified. Knowing the facts quite well, we have followed as closely as may be possible in preparing the proposed findings the agreements contained within the contract. Many of such misstate-
165 ments are made throughout the "objections", but we do not pay separate attention thereto.

14. The illegal method in arriving at the assessment in this case furnishes the evidence that it was arbitrary. For the Collector to arrive at a valid assessment, he must have an employment on a wage with respect to which to assess the percentage tax referred to in the statute. He cannot remake a taxpayer's contract and set up an alleged wage produced by his own calculations when none in fact existed. If such conduct is not arbitrary, we do not know the legal import of the word. The fact that the tax assessed was equal to or less than that which would have been assessable on a wage basis, had a wage been paid, is beside the point.

15. The same observations as set forth under Paragraph 14 are applicable. There was no determination of this tax upon "an agreement as to the amount between the taxpayer and Collector". Whatever any such arrangements may have been, (See Rec. pp. 89, 90) it is

entirely beside the point because the statute did not levy a tax on Greyvan Lines with respect to these independent contractors or their employees. The company, at all times, objected to the assessment of a tax and certainly no agreement between an examiner and the Treasurer of Greyvan can take the place of the statutory obligation. There was no consideration for an agreement; no approval of the Board of Directors, and no authority shown, or in fact existing, authorizing the making of an agreement. Here as throughout the case, counsel for the Collector are grasping at straws.

16. Counsel attempt to reargue their case here, as well as elsewhere. Partnerships are not assessable under the act. Partnerships, to a limited extent, did exist among the truckmen. The statement is one of fact, although, in certain respects it may also be a legal conclusion. 106. There cannot be little objection to its being included in the statement of facts even if that be so.

19. See Record p. 40, 48. Added to the cost of the tractor and semi-trailer is the cost of the pads (Exhibit A, Contract S1) and other equipment necessary to properly conduct the transportation business, which required an investment of better than $5,000.00.

The contract requires the truckmen to meet all obligations required by the ICC and laws of the several states (§§12, 13) which comprehends a display of license plates on the vans. The Court well knows that, without those designations, the equipment could not be operated. It is the presumption that that was done which is required to be done. This presumption is not broken down by showing that one particular owner did not have painted on his tractor his name and address which the Illinois law required (R. p. 118). (See *Magruder, Collector* v. *Yellow Cab Co.*, 141 Fed. (2d), 324). The Court may refer to the photographs of Greyvan's vans introduced in evidence (Exhibits 5 & 6) for supporting evidence showing the display of such designations.

22. We introduced sufficient of the books and records of the company, in connection to their accounts with the several truckmen to fully support this finding. (Exhibits B to K). The Government produced nothing to the contrary.

23. To the contrary, see the evidence at p. 124; and also pp. 49, 70, 75; and specifically Schertzberg's testimony, p. 124; and also specifically sheet 3 of the Govern-

ment's Exhibit 14, offered in evidence over our objection which details the history of all of these contracts and which were found by the Interstate Commerce Commission to be of a similar character.

Even Mr. Garofalo, Exhibit 11, Sheet 4, says:

"A copy of a contract form, which it is alleged is the form at present (April 5, 1930) used by the parties, 107 was introduced in evidence. * * * except for certain changes made therein, from time to time, this form of agreement has been used continuously since 1931."

24. The facts clearly establish what is set forth in the proposed finding. It was the finding of Judge Kloeb in the Mutual case in Paragraph 20 of the Findings of Facts filed by him in that case, copy of which has heretofore been furnished by us to the Court.

25. The proposed finding is fully supported by the evidence. We have already treated of this same subject in Paragraph 15, *supra*. There was no wages paid and the Collector had no legal right to convert contract payments into wages and to tax any portion of contract payments. Counsel again are attempting to reargue this case with respect to this objection. A similar finding was made by Judge Kloeb in the Mutual case, Paragraph 22 of the findings.

26. This proposed finding is not immaterial. It shows the arbitrariness with which the Collector has acted. In connection with several of the Ohio cases wherein administrative refunds are now being made, the Department has required affidavits with respect to the very finding here involved. Such affidavits so required must show that no part of this tax was collected from the alleged employee.

WITH RESPECT TO THE "CONCLUSIONS OF LAW".

1. The statute is self-executing and there is no reason for including within the judgment any provision with reference to prohibiting the plaintiff from issuing an execution against the defendant Collector. The statute is for his protection, but certainly is not meant to prohibit the plaintiff from having recourse against the Collector in the event the Treasury fails to pay from the appropriation. At any rate, the statute is self-executing.

OBJECTIONS TO DEFENDANT'S PROPOSED FINDINGS OF FACTS.

We shall respond to each paragraph separately:

1. The proposed Findings of Facts tendered by the Government is a one-sided affair. The Government refused to enter into any stipulation of agreed facts, except as to the Collector's side of this whole matter. The findings they now propose would be incomplete on their face and would take care of only the Government's side of the controversy.

2. The only statement of fact found in this paragraph is that, during the years mentioned, plaintiff operated under contracts with individuals, a sample of which contract was introduced in evidence. The latter statement is far from being a finding of fact.

3. The paragraph is a statement of what the evidence purports to show with reference to the contracts and their contents. It is wholly incomplete.

4 and 5. Again the Government proposes only to show what the evidence disclosed. The Court obviously came to the conclusion that the evidence so offered did not effect the non-employment relationship which the plaintiff maintained as to the truckmen involved. The matters of evidence recited in the proposed finding of facts is aside from the purpose of such findings.

6. This is another attempt to substitute what is called an agreement with an unauthorized employee of the plaintiff, a tax where none was imposed by the law. Mr. Shearer's conversation was no more than an acquiescence that, if the company was taxable, the amount used was fair. He said "I agreed that the figure they have set out is a fair figure, but acknowledge no liability for the company." (p. 89)

109 The Court, (page 90) in answer to an objection to that question indicated that he would draw the conclusion whether there was a wage or not. There could have been no agreement that the figures the Collector used "were correct". The point is that they were fair to the taxpayer, if the Court arrived at a conclusion that the plaintiff was taxable as an "employer" of the independent contractors involved.

The proposed finding in this paragraph is far from being correct, as the Treasurer of the Company had no authority to commit the company to any agreement, when the statute imposed no liability for the tax.

7. The only statement of fact involved is that the plaintiff filed an application before the Interstate Commerce Commission for the issuance of a certificate of public convenience (not conveyance) and necessity. Reference is made to what was introduced in evidence as Exhibit 9, which is not a finding of fact. The fact that the plaintiff filed a verified application is not a fact within the issues of the case, and the Exhibit was merely used as an attempt to impeach the witness and show an inconsistency in the position of the plaintiff in the two proceedings. The attempt failed miserably.

8. Another attempt to impeach, which was not either appropriate or successful. Garofalo's findings were no impeachment on the plaintiff's witnesses; and, in addition, to that they were later set aside by the Commission itself. It is only a recitation of impeachment evidence and, therefore, not proper as a finding of fact. The situation is quite similar to trying to impeach a witness by showing the opinion and finding of a lower court, which has later been reversed by an appellate court.

9 and 10. Another attempt at impeachment evidence with respect to a legal conclusion, wholly collateral to the issues presented in this case and is not entitled to the status of a finding of fact in this case. The proposal presents no fact bearing on the issues involved.

11. A part of the attempted impeachment evidence all of which is immaterial to the issues involved. Full disclosure of the company's method of operation was made to the ICC and its permit was granted notwithstanding. This is in accordance with the interpretation of the Motor Carrier Act by the ICC and the Courts as found in the cases cited in our briefs.

Our proposed finding of facts is a logical and correct presentation of the factual issues found in entire case and we respectfully submit that the Court should adopt that finding.

Respectfully submitted,

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2910 A. I. U. Building
Columbus, 15, Ohio

George T. Christie,
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Attorneys for Plaintiff.

111 TREASURY DEPARTMENT

Office of Commissioner of Internal Revenue

Washington 25, D. C.

A&C—Mimeograph
Coll. No. 5722

July 22, 1944.

Status of Certain Truck Drivers for Federal Employment Tax Purposes.
(A&C—Mimeograph Coll. No. 5641 Revoked)

Collectors of Internal Revenue:

1. In the case of the Mutual Trucking Co. *vs.* U. S., decided by the United States Circuit Court of Appeals for the 6th Circuit on April 7, 1944, it was held that owner operators of equipment engaged in interstate hauling were not subject to such direction and control by the lessee of the equipment to constitute an employment relationship for the purpose of imposing the taxes prescribed by Titles VIII and IX of the Social Security Act, the Federal Insurance Contributions Act, and the Federal Unemployment Tax Act. The Bureau has accepted the decision of the court as controlling in all cases involving the services of owner drivers.

2. It is now the position of the Bureau that generally owner drivers will be considered to be independent contractors for employment tax purposes. However, where evidence of direction and control such as that stated in S. S. T. 403, C. B. 1940-2, 250, are present an employment relationship should be considered to exist.

3. The owner of the truck will be considered to be the employer of any driver or helper he may engage unless the evidence clearly indicates he has surrendered his right to control the driver hired by him to the person for whom the services of the driver are rendered and the driver in fact is paid by such person.

4. Mimeograph 5641, dated February 24, 1944, is revoked.

5. If doubt exists in any case, the facts should be presented to the Bureau with a request for a ruling.

6. Inquiries relative to the contents of this mimeograph should refer to the number thereof and to the symbols, A&C:RR.

Harold N. Graves,
Acting Commissioner.

112 And afterwards, to wit, on the 13th day of October, 1944, being one of the days of the regular October term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable William J. Campbell, District Judge, appears the following entry, to wit:

113 In the District Court of the United States.

(Caption—43-C-276)

FINDINGS OF FACTS AND CONCLUSIONS OF LAW.

The court finds the facts herein are as follows:

1. Plaintiff, Greyvan Lines, Inc. is a corporation organized and existing under the laws of the State of Indiana and has its office and principal place of business in Chicago, Illinois. The company was incorporated February 23, 1929. Plaintiff is a common carrier engaged in the business of transporting, by motor truck, household and certain other goods throughout thirty-eight states of the United States, and in certain Provinces of Canada. It is duly authorized to conduct said business in the United States under the grandfather clause of the Motor Carrier Act of Congress and under the applicable regulatory acts and regulations of the several states of the United States. Plaintiff is certificated both by the Interstate Commerce Commission and the regulatory authority of the various states as operating over irregular routes. It duly filed its tariff charges with said Commission.

2. Carter H. Harrison, the defendant, hereinafter referred to as "Collector", at the times stated in the complaints was the duly appointed, qualified and acting Collector of Internal Revenue for the First District of
114 Illinois. The Collector, in the year 1942, acting under Section 3612 of the Internal Revenue Code, and the authority conferred on him thereunder, executed amended

and supplemental tax returns for the plaintiff under the Federal Unemployment Tax Act (formerly Title IX of the Social Security Act) for the years 1937, 1938, 1939, 1940 and 1941. Thereafter the Commissioner of Internal Revenue, in October 1942, assessed the plaintiff with additional tax, interest and penalty in the following amounts:

Period	Taxes	Interest & Penalty
1937	$ 2864.44	$ 808.64
1938	3358.57	746.61
1939	3918.31	835.94
1940	4432.47	453.44
1941	929.97	85.71
	$15503.76	$2730.34

Total additional tax, interest and penalty assessed and paid under the Federal Unemployment Tax Act being in the sum of $18,234.10.

3. The Collector, in the year 1942, acting under Section 3612 of the Internal Revenue Code, and the authority conferred on him thereunder, executed amended and supplemental tax returns for the plaintiff under the Federal Insurance Contributions Act (formerly Title VIII of the Social Security Act) covering the month of November and December 1937 and the years 1938, 1939, 1940 and 1941 and the months of January, February and March of 1942. Thereafter, the Commissioner of Internal Revenue, in August of 1942, assessed the plaintiff with additional taxes, interest and penalty as follows, to-wit:

Period	Taxes	Interest and Penalty
1937 (Nov. & Dec. only)	$ 381.48	$ 105.21
1938	2235.68	477.64
1939	2606.22	456.67
1940	2954.98	340.19
1941	3296.72	182.16
1942 (1st quarter)	882.74	16.29
Total	$12357.82	$1578.16
Additional Interest		56.11
		$1634.27

115 Total additional tax, interest and penalty assessed and paid under the Federal Insurance Contributions Act being in the sum of $13,992.09.

4. Said Collector determined that plaintiff had paid during the periods aforesaid, in addition to the amounts reported in the company's returns previously made by it, taxable wages upon which the foregoing taxes, interest and penalty were due and which were assessed in the several amounts herein before set forth.

5. The additional assessment, under the Federal Unemployment Tax Act (Title IX) in the total amount of $18,234.10, including accrued interest and penalty having been made, a Notice and Demand in Form SS17 of the Treasury Department, Internal Revenue Service, for the payment of said tax was served upon the plaintiff; and on the 30th day of October, 1942, plaintiff paid to defendant said tax, interest and penalty in the said total amount of $18,234.10.

6. The additional assessment, under the Federal Insurance Contributions Act (Title VIII), together with the interest and penalty, amounting to $13,992.09, having been made, Notice and Demand on said Form SS17 for payment of said tax was served on the plaintiff; and on August 12, 1942, plaintiff paid to defendant the sum of $2713.32, and on September 25, 1942, the sum of $11,278.77, making a combined total paid to defendant under said assessment of $13,992.09.

7. Plaintiff duly filed on Form 843, Treasury Department, Internal Revenue Service, being the form provided for that purpose, with said Collector, claims for refund of the several amounts of tax, penalty and interest so paid, claiming the same to have been wrongfully and illegally collected. Thereafter, plaintiff was notified of the disallowance of said claims for refund, after the receipt of
116 which notices of disallowance, the plaintiff commenced these actions for the recovery of said taxes, interest and penalties so paid.

8. These actions arise under the Act of Congress known as the Social Security Laws, passed August 4, 1935, Title VIII and IX, Sections 801 et seq. and Sections 901 et seq. and under subchapters (A) and (B) of Chapter 9 of the Internal Revenue Code of 1939, §§ 1400 et seq., and the amendments thereto, respectively known as the Federal Insurance Contributions Act and the Federal Unemployment Tax Act.

9. Plaintiff, during the times referred to herein was an "employer" within the meaning of said acts of Congress and duly returned under the provisions of said act to the authorities entitled to receive the same, reports of the amount of wages paid to its employees and duly paid the amount of taxes assessable on the said returns. The "wages" set forth in the amended and supplemental returns on which it was claimed additional taxes were due represented fractions of contract payments made by plaintiff to owners (hereafter designated "truckmen") of motor equipment contracted to plaintiff, and wages paid by said "Truckmen" to their own employees.

10. Said amended and supplemental returns so filed by the Collector, except as found in Paragraph 11, set forth specifically the names of persons and partnerships (the Truckmen) with respect to whom said Collector claimed that additional taxable wages had been paid by plaintiff, together with the additional amounts found by the Collector to have been so paid during the periods involved. The Court finds that the Truckmen so named in said amended and supplemental returns were not employees of the plaintiff and that the Truckmen so named in said supplemental returns had no employer-employee relationship with plaintiff, but were independent contractors.

117 11. In the said amended and supplemental returns the Collector, except as found in Paragraph 10, listed under the heading, "Name of Employee", the word "Dummy"; and under the heading, "Correct Amount of Wages", certain sums, and plaintiff was assessed tax, interest and penalty thereon. The word "Dummy" referred to certain unnamed and unascertainable employees of the Truckmen. Plaintiff occupied no employer-employee relationship with respect to such unknown employees of said Truckmen.

118 12. Plaintiff, as early as the year 1930, developed a system whereby the transportation of household goods and other commodities, entrusted to it for transportation, was contracted to suitable, responsible owners of motor vehicle equipment, designated in the contract as "Truckman". Such Truckmen were residents of the several states in which the company did business.

The Truckmen travelled long distances from the plaintiff's place of business in Chicago and were on the road for long periods of time by reason of which, it was

impracticable and impossible for the plaintiff to attempt to exercise control over the means and manner of the performance of such transportation and the loading and unloading of such goods into and from such motor vehicle equipment. Plaintiff, during the periods involved in the assessment, entered into written contracts with the owners of such equipment under which contract the Truckmen furnished the motor vehicle equipment, paid all expense of its operation; furnished the paraphernalia needed for the proper loading and unloading and transportation of said household goods or other commodities; furnished the necessary packing and crating materials; furnished all labor necessary; hired, fired, managed and paid such laborers; and was paid, as full recompense and remuneration therefor, a percentage of the predetermined tariff charges for such transportation. Payments to which the Truckman was entitled were determined by a schedule attached to the contract and payments were made monthly. The basis of division to the Truckman was 50 to 52½% thereof, plus, under certain conditions, a maximum allowable bonus up to 3% of the tariff charges.

13. Employment by the Truckmen of laborers, referred to as "helpers", was often necessary in the pickup and
119 delivery of the goods, for loading and unloading the goods into and out of the truck. Under the contract, the Truckman had the option of performing this labor himself, or of employing others to do it for him. Whenever goods were required to be loaded or unloaded, the Truckman might, if he desired, employ labor at the point of such loading and unloading for such purpose, and only supervise and direct the loading or unloading; or he might do part himself and hire the rest done. The plaintiff has no record of either the names of such Truckmen's employees, or the amounts of wages paid them by the Truckmen. The plaintiff had no contact with helpers engaged by the Truckmen. Such helpers were so engaged by the Truckmen at various points over the several states where loading and unloading might become necessary in the course of such transportation business. At times such labor was obtained from established warehouses, and such warehouses were paid by the Truckmen therefor.

14. As to the Truckmen, the plaintiff's records showed evidence of the total amount of the contract payments to them. Said Truckmen were not employed on the basis of a

wage with respect to employment and no record of wages paid to the Truckmen was, by reason thereof, available. The Collector determined that, if the Truckman was an employee, he would be paid for 44 weeks of the year on the union wage scale of $36.00 per week for the period preceding January 1, 1942, and thereafter on the same basis at the rate of $42.50 per week. The Collector thereby arrived at a claimed average wage, to January, 1942, for the Truckmen of $132.00 per month and $155.00 per month thereafter, and used said amount as a basis of "wage" for assessment of the tax. Said determination was arbitrary and illegal.

15. As to the unknown helpers employed by the 120 Truckmen as set forth in Paragraph 13, the Collector determined that the helpers' wages would be 41.67% of the amount determined and set up by him as the Truckmen's "wages" and, on this basis, set forth the calculated amounts in each of the amended and supplemental returns for the several periods under the heading "Correct Amount of Wages". The total so assumed and calculated as wages on which the tax was thus assessed, amounted to $181,886.00. Said determination was arbitrary and illegal.

16. Certain of said Truckmen were partnerships and the contract payments to them were not assessable under the Social Security Act.

17. Said Truckmen attached to their equipment the Interstate Commerce Commission plates required by the regulations of the Interstate Commerce Commission which were furnished and paid for by plaintiff; plaintiff paid the cost of licenses required in states other than the residence of the Truckmen, but, otherwise, the Truckmen operated under the various state license plates and drivers license required by the state of their respective residences, which were procured at their own expense; they hired, paid, managed and discharged any persons employed by them to assist in performing their contracts; they carried and paid for their own vehicle insurance covering fire, theft and collision damage. The cargo and public liability policies required by the rules of the Interstate Commerce Commission and of the several states through which they travelled was provided by plaintiff in the form required by the Interstate Commerce Commission and by the regulatory bodies of the several states in which said vehicles were operated. The cost of liability insurance was charged to the Truckmen and thus paid for by them.

18. Plaintiff maintains an organization to solicit business and sales agencies, in many of the larger cities,
121 but does not have representatives in each city, town and hamlet or other place to which it may be called to pick up or deliver household and other goods. Except in event of prepayment of tariff charges, or where deliveries are made to shippers or consignees having a predetermined credit rating, the Truckman is obliged to collect the tariff charges before making delivery. Such collections are in varying amounts, many of which exceed $500.00. The Truckmen are, by the contract, required to give bond in the penal sum of $1000.00, covering the Truckman and his approved substitute drivers, for the faithful accounting of such collections.

19. No specification is made by plaintiff as to make and character of equipment furnished; but no contract is made with the owner of equipment having less than a minimum carrying capacity. The equipment so provided by the Truckman, when new, carries an average investment of $5000.00. Each van bears the designation "Greyvan Lines", with company serial number and all designations required by the federal and state regulatory acts of the residence of the owner.

20. The Truckman must account to the company for the value of any or all loss or damage to the goods, wares and merchandise, occurring while the same are in his custody, possession or control, other than such as are covered by insurance. The company charges to the Truckman's account any loss, damage or expense which it may sustain because of his agreement contained in the written contract to indemnify the company against loss in operation. To guarantee such payment he is required to make and keep a cash deposit of $250.00. The Truckman pays all bridge tolls or other expenses incurred in the transportation; pays any fines for violation of the traffic laws and regulations for which he is responsible; and he chooses his own
122 routes for the delivery of goods and merchandise, except in such instances as he or the company may be restricted by local rule or regulation.

21. The Truckman, before a particular trip was begun, was furnished with the "Drivers Daily Logs" required, by the regulations of the Interstate Commerce Commission and the various regulatory bodies of the states through which the plaintiff operated, to be kept for safety and other

purposes; a "freight bill", and "bill of lading" as required by the Motor Carrier Act; and written instructions for the delivery of the merchandise, giving place and time of delivery. These, or the appropriate copies, are mailed in, or surrendered to, the company at the conclusion of the transportation service.

22. The provisions of the contract were adhered to by the parties thereto.

23. The form of the contract was devised and used prior to the advent of the Social Security Act in 1936 and there was no effort of tax evasion on the part of the plaintiff company.

24. The relationship of employer and employee did not exist between the plaintiff company and the Truckmen or between the persons employed by the Truckmen to assist them in either the transportation work or in loading or unloading. The Truckman was engaged in a business of his own, carried on by means of the use and operation of his own equipment for a lump sum paid in accordance with a pre-arranged schedule, out of which the Truckman paid those whom he hired to assist in his driving, loading and unloading. Any surplus remaining to the Truckmen from the payments made to them by plaintiff was retained by the Truckmen, and if there was any deficiency, the loss was theirs. There was no obligation on their part to ac-
123 count to plaintiff for all or any part of such payments.

The degree of control over the hiring, paying, managing and discharging of his employees clearly stamped the employer-employee relationship as existing only between the Truckman and his employees. No control, by plaintiff, over the Truckman or his employees in any way inconsistent with the contract provisions existed. Such directions as are shown to have been given the Truckmen were centered about the requirements provided by law for safety to the public and the safe transportation and delivery of the goods entrusted to plaintiff's custody.

25. The amount so assessed was an arbitrary sum, arbitrarily arrived at. Plaintiff had neither the authority nor duty of paying the persons employed by the Truckmen to assist them in the work. The plaintiff had no power or authority, under its contract with the Truckmen, to require the latter to make an accounting of the wages paid their employees. Plaintiff maintained no records respect-

ing those employed by the Truckmen and the Collector had no means of arriving at a basis for levying the tax. The plaintiff collected from the persons named or unnamed in the amended and supplemental returns no part of the tax which might have been assessable against the Truckmen for those employed by the Truckmen and had no right or authority to do so. The plaintiff paid to the employees of said Truckmen no amounts whatever, either as wage or otherwise. The plaintiff paid to said Truckmen no wages for personal service upon which any tax could be computed under said act.

26. The Collector, in preparing the amended and supplemental returns was unable to obtain, and did not obtain, the Social Security numbers with respect to those claimed by him to have been employees, whether or not specifically named in the returns, and it was not possible to
124 credit any contributions exacted from plaintiff under Title VIII of said Act to any individual.

27. The court finds that the Collector, in making said collections, acted under the directions of the Commissioner of Internal Revenue.

CONCLUSIONS OF LAW.

The Court states the following conclusions of law:

(1) The Court has jurisdiction of the parties hereto and the subject matter hereof.

(2) During the periods involved in the amended and supplemental returns, plaintiff was not the employer of the persons so named, either specifically or otherwise, in said amended and supplemental returns. The Truckmen specifically named in the amended and supplemental returns were independent contractors, and plaintiff was a principal. The persons included in the amended and supplemental returns under the designation of "Dummy" were the employees of the respective independent contractors, and not employees of the plaintiff.

(3) The taxes, penalty and interest so assessed against the plaintiff and paid, and for which recovery is sought, were erroneously and illegally assessed against, and collected from, the plaintiff; and the plaintiff is entitled to recover the same, together with interest thereon, as prayed for in its complaints.

(4) The plaintiff is entitled to judgment against the defendant, Carter H. Harrison, individually and as Collector of Internal Revenue, in the sum of $32,226.19, with interest at six per cent on the respective amounts hereinafter stated:

On $2713.32 from August 12, 1942, to date of payment;
On $11,278.77 from September 25, 1942, to date of payment;

125 On $18,234.10 from October 30, 1942, to date of payment.

(5) The Court finds, pursuant to Title 28, Section 842, United States Code, that said amounts should be provided for and paid out of the proper appropriation from the Treasury of the United States.

Enter:

Campbell,
District Judge.

October 13, 1944.

126 And on the same day, to wit, the 13th day of October, 1944, being one of the days of the regular October term of said Court, in the record of proceedings thereof in said entitled cause, before the Honorable William J. Campbell, District Judge, appears the following entry, to wit:

127 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—43-C-10 & 276)

JUDGMENT ENTRY.

This cause having been submitted to the Court without the intervention of a jury, and the Court having filed herein its finding of facts and conclusions of law, and having found that the plaintiff is entitled to judgment against the defendant, and coming now to enter the appropriate judgment, it is ordered that the Clerk forthwith enter the following judgment of record:

It is ordered and adjudged that the plaintiff, Greyvan Lines, Inc., a corporation, do have and recover from the defendant, Carter H. Harrison, individually and as Col-

ector of Internal Revenue, the sum of $32,226.19, together with interest on the respective amounts hereafter stated as follows, to-wit:

On $2713.32 from August 12, 1942 to date of payment;

On $11,278.77 from September 25, 1942 to date of payment;

On $18,234.10 from October 30, 1942 to date of payment.

Plaintiff's costs herein incurred or expended shall be taxed by the Clerk.

Defendant excepts.

The Court finds, pursuant to Title 28, Section 842, United States Code, that the defendant, in making the collection of said taxes, interest and penalties, acted under the direction of the Commissioner of Internal Revenue and that the amount of this judgment should be provided for and paid out of proper appropriation from the Treasury of the United States.

Enter:

Campbell,
District Judge.

Oct. 13, 1944.

129 And afterwards, to wit, on the 9th day of November, 1944, being one of the days of the regular November term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable William J. Campbell, District Judge, appears the following entry, to wit:

130 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—43 C 10 & 276)

AMENDED JUDGMENT ORDER.

This cause having been submitted to the Court without intervention of a jury and the Court having filed herein its findings of facts and conclusions of law, and having found that the plaintiff is entitled to judgment against the defendant, and coming now to enter the appropriate judgment, it is ordered that the Clerk forthwith enter the following judgment of record:

It is ordered and adjudged that the plaintiff, Greyvan

Lines, Inc., a corporation, do have and recover from t
defendant, Carter H. Harrison, individually and as C
lector of Internal Revenue, the sum of $32,226.19, togeth
with interest as provided by Section 3771, Title 26, U. S.
on the following amounts and dates, to-wit:

131 On $2,713.32 from August 12, 1942;
On $11,278.77 from September 25, 1942;
On $18,234.10 from October 30, 1942.

Plaintiff's costs herein incurred or expended shall b
taxed by the Clerk.

Defendant excepts.

The Court finds, pursuant to Title 28, Section 842, Unite
States Code; that the defendant, in making the collectio
of said taxes, interest and penalties, acted under the direc
tion of the Commissioner of Internal Revenue and that th
amount of this judgment should be provided for and paid
out of proper appropriation from the Treasury of th
United States.

Enter:

Campbell,
Judg

Nov. 9, 1944.

Dated at Chicago, Illinois, this 13 day of October A. D
1944.

132 And afterwards on, to wit, the 8th day of January, 1945, came the Defendant by his attorneys and filed in the Clerk's office of said Court his certain Notice Of Appeal, in words and figures following, to wit:

133 IN THE DISTRICT COURT OF THE UNITED STATES

For the Northern District of Illinois,

Eastern Division.

Greyvan Lines, Inc., *Plaintiff*, *vs.* Carter H. Harrison, Individually and as Collector of Internal Revenue, *Defendant*.	Civil Action. Consolidated Cases 43-C-10 and 43-C-276.

NOTICE OF APPEAL.

Notice is hereby given that Carter H. Harrison, defendant in the above-entitled consolidated cases, hereby appeals to the United States Circuit Court of Appeals for the Seventh Circuit from a judgment entered by the United States District Court for the Northern District of Illinois, in the above-entitled cases in favor of the plaintiff on October 13, 1944.

J. Albert Woll,
United States Attorney, in and for the Northern District of Illinois.

(Attached hereto is the following certificate:)

134 IN THE DISTRICT COURT OF THE UNITED STATES,
For the Northern District of Illinois,
Eastern Division.

CERTIFICATE OF MAILING.

I, Roy H. Johnson, Clerk of the United States District Court, for the Northern District of Illinois, Eastern Division, keeper of the Seal and Records of the said Court, do hereby certify that on the 9th day of January, 1945, in accordance with Rule 73 (b) of the Rules of Civil Procedure for District Courts of the United States, I did cause to be mailed a copy of the foregoing Notice of Appeal to the following attorneys of record:

George T. Christie, R. 2737,
Board of Trade Building,
141 West Jackson Boulevard,
Chicago, 4, Illinois.

Wilbur E. Burdy,
2910 A. I. U. Building,
Columbus, Ohio.

Roy H. Johnson,
(Seal) *Clerk.*

135 And afterwards on, to wit, the 8th day of February, 1945, came the Defendant-Appellant by his attorneys and filed in the Clerk's office of said Court his certain Statement Of Points, in words and figures following, to wit:

136 IN THE DISTRICT COURT OF THE UNITED STATES.
(Caption—43 C 10 & 276)

STATEMENT OF POINTS ON WHICH APPELLANT INTENDS TO RELY ON APPEAL.

The appellant, Carter H. Harrison, Collector of Internal Revenue for the First Collection District of Illinois, hereby states that in his appeal to the United States Circuit Court of Appeals for the Seventh Circuit from the final judgment

entered against him in the above-entitled cases on October 13, 1944, for $32,226.19, with interest and costs, he intends to rely upon the following points:

1. The Court erred in its special finding of fact No. 10 in finding that the truckmen named in the amended and supplemental returns were not employees of plaintiff and in finding that said truckmen were independent contractors.

2. The Court erred in its special finding of fact No. 11 in finding that the word "dummy" used in amended and supplemental returns referred to unnamed and unascertained employees of the truckmen and that no employer-employee relationship existed between plaintiff and said parties.

137 3. The Court erred in its special finding of fact No. 12 in that the same is in part not supported by evidence and in that the evidence does not support the statement that plaintiff operated under the "system" from 1930 to the present time and that its entire business was operated in that manner and that the truckmen were all residents of the states where plaintiff did business. Also the statement is unsupported by evidence that it was impracticable or impossible for plaintiff to attempt to exercise control over the means and manner of the performance of the transportation and loading and unloading goods into and from the motor equipment. Likewise the statement is unsupported by evidence that all costs of operation were borne by the truckmen.

4. The Court erred in its special finding of fact No. 13 in finding that the plaintiff had no record of the names of the truckmen's employees or amounts of wages paid them or had no contact with the helpers and in finding that the helpers were obtained by truckmen from established warehouses and that such warehouses were paid by the truckmen, none of these findings being supported by the evidence.

5. The Court erred in its special finding of fact No. 14 in that the following statements in said finding are not supported by the evidence: (a) That the truckmen were not employed on the basis of a wage with respect to employment and no record of wages was by reason thereof available. (b) That the determination of the wages paid to the truckmen was arbitrary and illegal.

6. The Court erred in its special finding of fact No. 15 in that statements therein that the determination of wages was arbitrary and illegal and not supported by the evidence.

138. 7. The Court erred in its special finding of fact No. 16 in finding that payments to truckmen who were partnerships were not assessable under the Social Security Act.

8. The Court erred in its special finding of fact No. 19 in finding that the truckmen's equipment when new carried an average investment of $5,000 and that each van bore all designations required by the federal and state regulatory acts, said statements being not supported by the evidence.

9. The Court erred in its special finding of fact No. 20 in finding that the truckman pays all expenses of the transportation and all fines and that he chooses his own routes for the delivery of goods and merchandise except in such instances as he or the company may be restricted by local rules and regulations, said finding not being supported by the evidence.

10. The Court erred in its special finding of fact No. 22 in that there is no evidence showing that all of the provisions of the contract were adhered to by all of the parties thereto.

11. The Court erred in its special finding of fact No. 23 in that there is no evidence showing that the form of these particular contracts was in force prior to the Social Security Act in 1936 and in further finding there was no efforts of tax evasion on the part of the plaintiff.

12. The Court erred in its special finding of fact No. 24 in making the following findings which are unsupported by the evidence: (a) That the relationship of employer-employee did not exist between plaintiff and the truckmen and persons employed by the latter to help them. (b) That the truckmen were engaged in businesses of their own. (c)

139 that the degree of control over hiring and paying wages and discharging stamped the relationship between the truckmen and helpers as the employer-employee relationship. (d) That the directions given the truckmen were all centered about the requirements provided by law for safety to the public and safe transportation and delivery of goods entrusted to plaintiff's custody.

13. The Court erred in its special finding of fact No. 25, the entire finding being unsupported by the evidence which does not support the statements: (a) That the amount assessed was arbitrarily arrived at. (b) That the plaintiff had no power under the contract to require the truckmen to make an accounting of wages paid "their employees". (c) That plaintiff kept no records respecting those employed by the truckmen. (d) That plaintiff collected no tax from persons named in the amended and supplemental returns and had no right or authority to do so. (e) That plaintiff paid to employees of the truckmen no amounts as wages or otherwise. (f) That plaintiff paid the truckmen no wages for personal service upon which any tax could be computed under the Act.

14. The Court erred in its special finding No. 26 in that there is no evidence that the Collector did not secure the social security numbers of those alleged to be employees and that it was not possible to credit contributions to any individual, the same being not supported by the evidence.

15. The Court erred in refusing to find on request of the defendant that the contracts entered into between the truckmen and plaintiff were in form as Exhibit A introduced as evidence in the cases and in refusing to set forth in said findings a complete statement of the material portions of said contract, especially the provisions of paragraph 1, 2, 5, 6, 10, 12, 13(a), 13(b), 15, 16, 18, 20 and 21 of said contract, the provisions of which clearly showed that plaintiff had the right to control the truckmen and their helpers as to the details of their work. The Court further erred in refusing to find that under the provisions of said contract the truckmen agreed to devote their services exclusively to the plaintiff in transporting plaintiff's goods, wares and merchandise; that in loading and unloading goods the truckmen agreed to comply with all rules, instructions and regulations of the plaintiff and that all unloading and loading of merchandise and setting up the same must be in accordance with tariff, instructions and regulations of the plaintiff; also that collection of monies for the plaintiff must be in accordance with instructions, general or special, issued by the plaintiff, and that if licenses, taxes, fines and penalties were incurred while acting in accordance with the rules, regulations and instruc-

tions of the plaintiff, the plaintiff was bound under the contract to credit the truckmen's account with the same; also that the plaintiff had the right to terminate the contract with the truckmen upon notice and the truckmen had the right to quit upon notice. The Court also erred in refusing to find that additional compensation was payable to the truckmen under the contracts, dependent upon satisfactory performance of services, mental attitude and personal appearance.

16. The Court erred in refusing to find as requested by defendant that early in 1940 plaintiff issued to each of said truckmen under contract, as well as to truckmen who later executed contracts with plaintiff, a book known as a manual for truckmen in form as Government's Exhibit 1, and that the truckmen and their helpers were required and obliged to follow the provisions of such manual. The undis-
141 puted evidence showed that such manual was issued and that the terms and provisions thereof required the truckmen to follow the same and that through such manual plaintiff exercised the right of control over the truckmen and their helpers not only as to the result to be accomplished by the work but as to the details and means by which the work was to be accomplished.

17. The Court erred in refusing to find as requested by defendant that bulletins and instructions had been issued by plaintiff prior to 1940 and during the years and periods here involved, containing similar instructions and directions to those contained in the truckmen's manual.

18. The Court erred in refusing to find as requested by the defendant that the amounts determined by the Collector and Commissioner as being wages subject to taxation under the Social Security Act were determined as a result of a conference between the Collector and plaintiff's treasurer and that plaintiff's treasurer agreed with the Collector, that the amounts which were allocated by the Collector as wages were proper and correct.

19. The Court erred in refusing to find as requested by the defendant that in 1939 plaintiff filed exceptions to a report of Examiner Garofalo of the Interstate Commerce Commission in connection with an application by plaintiff for a certificate of public convenience and necessity, which exceptions stated that the driver-owner equipment was operated under the full management and control of plaintiff

and that the operations were the same at all times since June 1, 1935.

20. The Court erred in refusing to find as requested by defendant that in an argument before the Interstate Commerce Commission on exceptions to the examiner's report, plaintiff's counsel stated before the Commission that
142 the relationship of employer-employee existed between plaintiff and truckmen.

21. The Court erred in its conclusion of law No. 2 in concluding that plaintiff was not the employer of the truckmen and the helpers were not employees of plaintiff and in concluding that the helpers were employees of the truckmen.

22. The Court erred in concluding that the taxes paid for which recovery was sought were erroneously and arbitrarily assessed and collected from plaintiff and in concluding that plaintiff was entitled to recover the same.

23. The Court erred in concluding that plaintiff was entitled to judgment against defendant.

24. The findings and judgment of the Court are not sustained by the evidence.

25. The findings and judgment of the trial court are contrary to law.

26. The trial court erred in not entering findings and judgment in favor of the defendant.

J. Albert Woll,
United States Attorney in and for the Northern District of Illinois, Eastern Division.—Attorney for Defendant-Appellant.

Received a copy of the above and foregoing contents of record on appeal this 24th day of January, 1945.

Wilbur E. Benoy,
George T. Christie,
Attorneys for Greyvan Lines, Inc., Plaintiff-Appellee.

143 And on the same day, to wit, the 8th day of February, 1945 came the Parties by their attorneys and filed in the Clerk's office of said Court their certain Stipulation in words and figures following, to-wit:

144 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—43-C-10 & 276)

STIPULATION.

It Is Hereby Stipulated by and between the parties hereto in the above entitled appeal that:

1. The defendant-appellant herein be required to file only one copy of the transcript of testimony;

2. The Clerk of the United States District Court for the Northern District of Illinois be directed to transmit all exhibits in original form to the Clerk of the Seventh Circuit Court of Appeals.

J. ALBERT WOLL,
United States Attorney,
Attorney for Defendant-Appellant.

WILBUR E. BEXON,
Attorney for Plaintiff-Appellee.

January 24, 1945.

363 And on the same day, to wit, on the 12th day of February, 1945, being one of the days of the regular February term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable William J. Campbell, District Judge appears the following entry, to wit:

364 IN THE DISTRICT COURT OF THE UNITED STATES:

Monday, February 12, 1945.

Present,

Honorable William J. Campbell, District Judge.

(Caption—43-C-10 & 276)

On motion of the defendant by the United States Attorney It Is Ordered that the Clerk of this Court be and he is hereby directed to transmit to the Clerk of the Circuit Court of Appeals for the Seventh Circuit the original exhibits of plaintiff and defendant in lieu of copies thereof.

364½ The following are the docket entries in said cause: No. 43-C-10:

363 (Caption)

Attorneys:

For Plaintiff:

George T. Christie, Room 2737, Board of Trade Building;

Wilbur F. Burdy, 2910 A. I. U. Building, Columbus, Ohio.

For Defendant:

J. Albert Woll, U. S. Attorney.

Date	Plaintiff's Account	Rec'd	Disbur'd
1-6-43	GTC	10.00	
Mar. 31, 1943	March report		5.00
	December Report		5.00

COMPLAINT & PRECIPE.

Basis of Action: Action under Soc. Sec. Act, T. VIII 801 *et seq.* under SubChap. (a), Chap. 9, Int. Rev. Code. Suit to collect excise taxes erroneously & illegally paid by Pltff. 1937-42, etc. Seeks $13,992.09, interest.

Case No. 430276 Consolidated with this cause for trial

Date	Filings-Proceedings	Amount Reported in Clerk's Fees Emolu. Pltff.	Deft.	Returned
1-6-43	Filed Complaint & Precipe & 4 Copies (JS5)	5.00		
1-6-43	Filed Security for Costs			
1-6-43	Issued Summons and Copies			
2-3-43	Filed Summons returned served as to the U. S. of A., Attorney General, Commissioner of Internal Revenue and Carter H. Harrison. Fee 2.00			
3-12-43	Filed Answer of Carter H. Harrison	5.00	US	
4-1-43	Pursuant to standing order in Judge Campbell's Court this cause set for pre-trial conference May 4, 1943 at 10:30 A.M.— Campbell, J. Mailed Notice to Attorneys 4-1-43			
4-8-43	Order on motion pltff/ pre-trial conference reset from May 4, 1943 to June 8, 1943 at 11:30 A.M. Campbell, J. Mailed Notice to Attorneys; 4-10-43			
5-5-43	Order pre-trial conference reset from June 8, 1943 to June 7, 1943 at 11:30 A.M. Campbell, J. Mailed Notice to Attorneys, 5-6-43			

Date	Filings-Proceedings	Amount Reported in Clerk's Fees Pltff.	Deft.	Emolu't Returns
6-7-43	Pre-trial conference held. Issues of this case discussed together with issues in Case No. 43 C 276. Pltff. agrees to arrange for Govt. to interview necessary number of owner-driver associates of pltff. company. Parties hereto directed to meet in conference for the purpose of discussing and agreeing upon facts to be included in contemplated stipulation. Pltff. directed to file its brief and arguments in support of its position within 15 days from the date of filing of agreed stipulation of facts. Deft. directed to file brief and arguments in reply thereto within 30 days thereafter. Pltff. directed to file reply thereto within 10 days thereafter. Whereupon this cause will be taken by the Court for disposition without further argument. Campbell, J. Mailed Notice to Attorneys, 6-11-43.			
9-17-43	Filed Stipulation and motion			
9-17-43	Enter orgley setting the trial of the above cases for November 22, 1943 as per stipulation—Campbell, J.			
367	Mailed Notice to Attorneys 9-20-43.			

Date	Filings-Proceedings	Amount Reported in Clerk's Fees Pltff.	Deft.	Returns
11-22-43	Order trial reset to January 31, 1944 at head of call—Campbell, J. Mailed Notice to Attorneys 11-23-43			
1-12-44	Order by agreement trial reset from January 31, 1944, to February 1, 1944.—Campbell, J. Mailed Notice to Attorneys 1-14-44			
1-28-44	Filed Praecipe for Subpoena			
1-28-44	Issued Subpoena to Joseph Garrison			
1-31-44	Filed Praecipe for Subpoena			
1-31-44	Issued Subpoena and copy to Aage Sahlgaard			
2-1-44	Order causes Nos. 43C10 and 43C276 consolidated for trial under consolidated No. 43C10—(Draft)—Campbell, J.			
2-1-44	Cause called for trial—Leave to Wilbur E. Benoy to practice in this court for the purposes of this trial—Leave to parties to file stipulation of facts instanter—Evidence heard in part for for plaintiff—Trial adjourned to February 2, 1944—Campbell, J. Mailed Notice to Attorneys 2-2-44			
2-1-44	Filed Stipulation of Facts			
2-2-44	Filed Plaintiff's Exhibit A to K, incl.			

Date	Filings-Proceedings	Amount Reported in Clerk's Fees Emolu't Pltff. Deft. Returns
2-2-44	Filed Government's Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 9 Unidentified Exhibits	
2-2-44	Further evidence heard for plaintiff—Plaintiff rests—Evidence heard for defendant—Defendant rests—Both sides rest—Cause taken under advisement—Plaintiff directed to file brief and arguments within 30 days from this date—Defendant directed to file brief and arguments within 30 days thereafter—Plaintiff's replication to be filed within 15 days thereafter—Order exhibits filed—Leave to parties to withdraw exhibits for purpose of preparing briefs and arguments—Leave to parties to remove original exhibits permanently from Clerk's file upon substituting photostatic copies—Campbell, J. Mailed Notice to Attorneys 2-4-44	
2-3-44	Filed Witness Subpoena returned served as to Joseph Garrison Fee $.80	
3-6-44	Filed Witness Subpoena returned served as to Aage Sahlgaard $.68.	
3-8-44	Filed Receipt of U. S. Attorney re copy of findings of fact etc.	

Date	Filings-Proceedings	Clerk's Fees Pltff.	Deft.	Amount Reported in Emolu't Returns
4-6-44	By agreement time plaintiff to file reply brief extended to and including May 3, 1944— BARNES, J. Mailed Notice to Attorneys 4-10-44			
5-1-44	Order by agreement to extend time for filing plaintiff's reply brief to May 27, 1944— Campbell, J. Mailed Notice to Attorneys 5-5-44			
7-27-44	Filed Memorandum of Hon. William J. Campbell, District Judge			
7-27-44	Court finds issus for plaintiff— Pursuant to memorandum of Court filed herein this day counsel for plaintiff may within 20 days file proposed findings of fact; conclusions of law and form of judgment, etc. Defendant to file observations etc. within 20 days thereafter, etc. Plaintiff's reply to be filed within 10 days thereafter—Campbell, J. Mailed Notice to Attorneys 7-28-44			
8-1-44	Mailed copy Memorandum to Attorney General			30 US
9-9-44	Filed Defendant's Proposed Findings of Fact			
9-9-44	Filed Observations with Reference to Proposed Findings of Facts and Conclusions of Law and Judgment Decree submitted by Plaintiff and Suggestions for Modification Thereof			
9-13-44	Order by agreement time of plaintiff to file reply to observations of defendant extended 10 days from this date— Campbell, J. Mailed Notice to Attorneys 9-15-44			

Date	Filings-Proceedings	Amount Reported in Clerk's Fees Pltff.	Deft.	Emolu't Returns
0-13-44	Enter findings of fact and conclusions of law—(DRAFT)—Enter judgment-Plaintiff recover sum			
369	of $32,226.19 with interest and costs to be taxed, etc. (Draft)—Campbell, J. (JS6)	5.00		
	Mailed Notice to Attorneys 10-13-44			
1-8-44	Filed Notice			
1-8-44	Motion of Defendant to amend judgment entered and continued to November 9, 1944 before Judge Campbell—Barnes, J.			
	Mailed Notice to Attorney 14-10-44			
11-9-44	Entered Amended Judgment Order: Pltff. recover sum of $32,226.19 with interest, etc. and costs, etc. Draft. Campbell, J.			
	Mailed Notice to Attorneys 11-10-44			
	December 31, 1944		5.00	
8-45	Filed Notice of Appeal by defendant appealing from judgment entered October 13, 1944		5.00	US
9-45	Mailed copy of Notice of Appeal to George T. Christie R. 2737, Board of Trade Building, 141 West Jackson Boulevard, Chicago 4, Illinois and Wilbur E. Burdy, 2910 A.I.U. Building, Columbus, Ohio.			

Date	Filings-Proceedings	Amount Reported in Clerk's Fees Pltff.	Deft.	Emolu'ts Returns
2-8-45	Filed Statement of Points on which appellant intends to rely on appeal			
2-8-45	Filed Designation of Contents of Record on Appeal			
2-8-45	Filed Stipulation			
2-12-45	Order directing Clerk of U. S. Dist. Court to transmit to the 7th Circuit Court of Appeals the original exhibits of pltffs. and defts. in lieu of copies thereof. Campbell, J. Mailed Notice to Attorneys 2-13-45			
2-12-45	Filed Transcript of Testimony—2 vols.			

The following are the docket entries in said cause: No. 43-C-276.

370 Reassigned to Judge Campbell.

(Caption)

For Plaintiff:

George T. Christie, 2737 Board of Trade Bldg.
Wilbur E. Benoy, 2910 A.I.U. Bldg. Columbus, O.

For Defendant:

J. Albert Woll, U. S. Attorney.

Date	Plaintiff's Account	Rec'd	Disbur'd
3-17-43	GTC	10.00	
Mar. 31, 1943	March Report		5.00
	December Report		5.00

Complaint, Basis of Action: Action under Soc. Sec. Act, T. IX, 901 et seq. U. S. C. T. 26, Chap. 9, sub-chap. (c) Int. Rev. Code (Fed. Unemploy. Tax Act), etc. Suit for refund for excise taxes erroneously & illegally exacted from Ptff. 1937-1941. Seeks $18,234.10 & interest & costs. Consolidate with Cause No. 43C10 for Trial.

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Date	Filings-Proceedings	Amount Reported in Clerk's Fees Pltff.	Deft.	Amount Refunds
3-17-43	Filed Complaint and 4 Copies (JS5).	5.00		
3-17-43	Issued Summons and 4 Copies			
3-17-43	Filed Security for Costs			
3-19-43	Filed Summons returned served as to Carter H. Harrison, J. Albert Woll, U. S. Atty., The Attorney General and the Commissioner of Internal Revenue Fee 2.00			
	March 31, 1933			5.00
4-19-43	Filed Notice			
4-19-43	Filed Motion of Defendant			
4-19-43	Order referring cause to the Executive Committee of this court for reassignment to the Calendar of Judge William J. Campbell,—Sullivan J. Mailed Notice to Attorneys 4-21-43			
4-20-43	It is ordered that the above-entitled cause be and the same is hereby re-assigned to Judge Campbell,—Barnes, Holly and Sullivan, Judges			
5-14-43	Filed Answer of defendant and proof of service		5.00	US
6-7-43	Pre-trial conference held. Issues of this cause discussed together with issues in Case No. 43 C 10. Pltff. agrees to arrange for Govt to interview necessary number of owner-driver associates of pltff. company. Parties			

Date	Filings-Proceedings	Amount Reported in Clerk's Fees Emolu' Pltff.	Deft.	Return
	hereto directed to meet in conference for the purpose of discussing and agreeing upon facts to be included in contemplated stipulation. Pltff. directed to file its brief and arguments in support of its position within 15 days from the date of filing of agreed stipulation of facts. Deft. directed to file brief and arguments in reply thereto within 30 days thereafter. Pltff. directed to file its reply thereto within 10 days thereafter. Whereupon this cause will be taken by the Court for disposition without further argument. Campbell, J.			
	Mailed Notice to Attorneys, 6-11-43			
9-17-43	Filed Stipulation (see No. 43C10)			
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9-17-43	Order setting the trial of the above case for November 22, 1943 as per stipulation—Campbell, J. (See No. 43C10)			
	Mailed Notice to Attorneys 9-20-43			
11-22-43	Order trial reset to January 31, 1944 at head of call—Campbell, J.			
	Mailed Notice to Attorneys 11-23-43			

1-12-44 Order by agreement trial reset from January 31, 1944, to February 1, 1944—Campbell, J.
Mailed Notice to Attorneys 1-14-44

1-28-44 Filed Praecipe for Subpoena (See 43C10)

1-28-44 Issued Subpoena to Joseph Garrison

1-31-44 Issued Subpoena to Aage Sahlgaard

2-1-44 Order Causes Nos. 43C10 and 43C276 consolidated for trial under No. 43C10—(Draft)—Campbell, J.

2-1-44 Cause called for trial—Leave to Wilbur E. Benoy to practice in this court for the purposes of this trial—Leave to parties to file stipulation of facts instanter—Evidence heard in part for plaintiff—Trial adjourned to February 2, 1944 at 10 A.M.—Campbell, J.
Mailed Notice to Attorneys 2-2-44

10-13-44 Enter findings of fact and conclusions of law—(Draft)—Enter judgment—plaintiff recover sum of $32,226.19 with interest and costs to be taxed etc. (Draft)—Campbell, J. (JS6) 5.00
Mailed Notice to Attorneys 10-13-44 (see No. 43 C 10)

December 31, 1944 5.00

And on, to wit, the 8th day of February, 1945 came the Defendant-Appellant by his attorneys and filed in the Clerk's office of said Court his certain Designation of Contents of Record on Appeal in words and figures following, to wit:

373 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption 43-C-10 & 276)

To the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division:

DESIGNATION OF CONTENTS OF RECORD ON APPEAL.

Comes now Carter H. Harrison, defendant-appellant herein, and designates that the following papers and documents be included in and contained in the record on appeal in the above-entitled cases:

1. All docket entries in cases.
2. Complaint in cause 43-C-10, summons thereon and return.
3. Complaint in cause 43-C-276, summons thereon and return.
4. Answer in cause 43-C-10.
5. Answer in cause 43-C-276.
6. Order of pre-trial conference dated June 7, 1943.
7. Order consolidating cases for trial dated February 1, 1944.
8. Stipulation of facts.
9. Memorandum opinion of Honorable William J. Campbell, dated July 27, 1944.

374 10. Defendant's observations with reference to proposed findings of facts, conclusions of law and judgment decree submitted by plaintiff and suggestions for modification thereof filed September 9, 1944.

11. Answer by plaintiff to suggestions for modifications, etc.

12. Findings of fact and conclusions of law and judgment order as entered by Court, October 13, 1944.

13. Amended judgment order entered November 9, 1944.

14. Transcript of all testimony of February 1 and 2, 1944.
15. Plaintiff's exhibits A to K, inclusive.
16. Government's exhibits 1 to 15, inclusive.
17. Notice of appeal.
18. Statement of points on which appellant intends to rely on appeal.
19. This designation of record.
20. All stipulations of the parties relating to the preparation of the record or contents thereon on appeal or relating to this appeal.
21. All orders of this Court relating to preparation of the record or contents thereon on appeal or extensions of time for filing of record or docketing case on appeal.

Dated at Chicago, Illinois, this 25 day of January, 1945.

J. ALBERT WOLL,
United States Attorney in and for the Northern District of Illinois, Eastern Division,
Attorney for Carter H. Harrison, Defendant-Appellant.

Received a copy of the above and foregoing designation of contents of record on appeal this 24th day of January, 1945.

WILBUR E. BENOY,
GEORGE T. CHRISTIE,
Attorneys for Greyvan Lines, Inc., Plaintiff-Appellee.

375. NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION. } ss:

I, Roy H. Johnson, Clerk of the District Court of the United States for the Northern District of Illinois, do hereby certify the above and foregoing to be a true and complete transcript of the proceedings had of record made in accordance with designation filed in this Court in the case entitled: Greyvan Lines, Inc., Plaintiff, *vs.* Carter H. Harrison, Individually and as Collector of Internal Revenue, Defendant, Civil Action Consolidated Cases 43 C 10 and 43 C 276, as the same appear from the original records and files thereof now remaining in my custody

and control, except the original exhibits filed herein, and transmitted hereith.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court at my office, in the City of Chicago, in said District, this 16th day of February, A.D. 1945.

(SEAL) Roy H. Johnson,
Clerk.

IN THE UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE SEVENTH CIRCUIT.

Greyvan Lines, Inc.,
Plaintiff-Appellee,
vs.
Carter H. Harrison, Individually and as Collector of Internal Revenue,
Defendant-Appellant.
} No. 8779.

STIPULATION.

IT IS HEREBY STIPULATED by and between the parties hereto in the above entitled appeal, that the original exhibits introduced at the trial in the United States District Court for the Northern District of Illinois be omitted from the printed transcript of record herein and that such original exhibits as transmitted by the Clerk of the United States District Court to the Clerk of the Seventh Circuit Court of Appeals to be designated and incorporated by reference hereto as a part of said printed record.

J. ALBERT WOLL,
United States Attorney,
Attorney for Defendant-Appellant.

WILBUR E. BENOY,
Attorney for Plaintiff-Appellee.

Approved, Otto Kerner, Feb. 19, 1945.

At a regular term of the United States Circuit Court of Appeals for the Seventh Circuit, held in the City of Chicago, and begun on the third day of October, in the year of our Lord one thousand nine hundred and forty-four and of our Independence, the one hundred and sixty-ninth.

8779

GREYVAN LINES, INC., PLAINTIFF-APPELLEE

vs.

CARTER H. HARRISON, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE, DEFENDANT-APPELLANT

Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division

And, to wit: On the twelfth day of July 1946, there was filed in the office of the Clerk of this Court, the Opinion of the Court, which said opinion is in the words and figures following, to wit:

In the United States Circuit Court of Appeals for the Seventh Circuit

October Term, 1945, April Session, 1946

No. 8779

GREYVAN LINES, INC., PLAINTIFF-APPELLEE

vs.

CARTER H. HARRISON, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE, DEFENDANT-APPELLANT

Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division

July 12, 1946

Before SPARKS, MAJOR, and KERNER, Circuit Judges.

SPARKS, Circuit Judge. The Greyvan Lines, Inc., sued to recover certain amounts alleged to have been wrongly assessed and collected for social security taxes under the alleged authority of the Social Security Act, 42 U. S. C. A. §§ 1001 and 1101. The District Court found that the persons on whose alleged wages the taxes were paid were independent contractors rather than employees, and accordingly entered judgment for their refund, and from that judgment, the Government appeals.

The taxpayer is an Indiana corporation organized to engage as a common carrier in the business of transporting household and other goods by motor truck in thirty-eight states and into certain Canadian provinces. It was authorized to conduct its business in the United States under the grandfather clause of the Motor Carrier Act (49 U. S. C. A. § 301 et seq.), and the various Acts and regulations of the states in which it operated. It filed its return as an employer and paid taxes pursuant thereto. The Collector, however, claimed additional taxes as to certain individuals referred to here as truckmen, and helpers engaged by them, and it is as to the status of these individuals that the controversy is presented. The taxpayer contends that the truckmen operated as independent contractors, and their helpers were their own employees, while the Collector contends that the truckmen and their helpers alike bore an employee relationship to the taxpayer.

The court found that as early as 1930, the Company developed a system whereby the transportation of goods entrusted to it for such transportation, was contracted to suitable, responsible owners of motor vehicle equipment residing in the various states in which it did business.

The contracts under which these owner-operators worked provided for exclusive service for themselves and their equipment, including their motor vehicles and all necessary paraphernalia and materials for the business, and that in connection with this exclusive service, the truckmen would comply with all rules, regulations and instructions of the Company. The trucks were required to be painted with certain colors and insignia as designated by the Company. The contract further provided that the truckman would hire any labor required incident to pick-up, loading and delivery of shipments "at his own expense and in his own employ and which shall be under his direction and control." He was to personally drive his truck or trucks except that he was permitted to use a competent helper as a relief driver, and, in case of unforeseen circumstances, he might, upon notifying the Company and obtaining its approval, employ a substitute, but he or the approved substitute was required to remain on the truck.

The truckmen were required to furnish fire, theft, collision, public liability, and property damage insurance at their own expense, and the Company was authorized to place all such insurance for the truckmen and charge their accounts for it. The Company was to furnish necessary cargo insurance. Each truckman was to furnish a $1,000 bond to cover himself and his substitute driver, if any, and he was also required to deposit $250 to be held until final settlement of all accounts. Unless special credit was arranged by the shipper, collections were to be made on all deliv-

eries by the truckmen according to instructions furnished with each shipment. All claims for loss or damage not covered by cargo insurance were to be charged to the account of the truckman, and the contract required that notice of such claims be given to him immediately in order to enable him to clear himself of responsibility if possible, and if he established his non-liability for a claim theretofore paid, his account was to be credited for the amount paid in settlement.

All operating costs, which were listed by the contract to include property taxes, resident vehicle license, fuel, tires, and repairs, were to be borne by the truckman, while the Company was to furnish all permits and licenses for operation in its service as a motor carrier under federal or state laws.

The contract further provided that all contracts or bills of lading should be in the name of the Company, and if the truckman obtained any business himself, he must notify the Company to enable it to make the contract in its own name. If the truckman did any hauling for anyone other than the Company his contract would be subject to termination for breach. The Company was authorized to charge to the truckman's account any expense incurred by it for his express benefit.

Remuneration was provided for in accordance with a Rate Schedule, a current copy of which was attached to the contract, and it was further agreed that the schedules would not be changed, nor would any rules be adopted by the Company which would result in reducing the income, as provided by the schedule, without the written consent of the duly authorized representative of the truckman. This remuneration was a percentage of the predetermined tariff charges, from 50% to 52%, plus a bonus up to 3% of the tariffs.

The contract was subject to cancellation at any time upon written request of the truckman or written notice by the Company.

In 1942, the Collector of Internal Revenue amended and supplemented the Company's returns for taxation under Titles VIII and IX of the Social Security Act, assessing additional taxes based on a determination that the Company had paid taxable wages during the period from 1937 to 1942 which had not been included in the returns originally filed by it. The basis used for the assessment was an average wage for each truckman of $36 a week for forty-four weeks a year up to January 1, 1942, and $42.50 a week thereafter, those being the union wage scales. For the helpers, it was determined that their wages would be 41.67% of the amount determined for the truckmen's wages. The total amount calculated was $181,866, on which taxes and penalties were assessed.

The parties stipulated as to the mode of calculating the additional taxes assessed, but not their correctness. In addition, the evidence consisted of certain exhibits and the testimony of a number of witnesses. From this evidence the court rendered findings of fact including the following which appellant challenges: The truckmen were not employees of taxpayer but were independent contractors; they travelled long distances from its place of business and were on the road for long periods of time and it was therefore impracticable and impossible for taxpayer to exercise control over the means and manner of the transportation, loading the unloading of the goods; some of the truckmen were partnerships and the contract payments to them were not assessable under the Act; the relationship of employer and employee did not exist between taxpayer and the truckmen or between taxpayer and persons employed by the truckmen; the truckmen were engaged in business of their own; the degree of control over the hiring, paying, managing and discharging of helpers stamps the employer-employee relationship as existing only between the truckman and his helpers; no control by the taxpayer over the truckman or his employees existed in any way inconsistent with the contract provisions; and the directions that were shown to have been given the truckmen were centered about the requirements provided by law for safety to the public and the safe transportation and delivery of the goods entrusted to the taxpayer's custody.

Appellant contends that in determining these facts the court failed to give effect to important provisions of the contracts which it asserts clearly show the reservation of the right of control over the truckmen and their helpers as to the methods and means of their operations which, it is agreed, furnish the test for determining the relationship here in question. Appellant calls attention to a manual which was furnished to each truckman giving very detailed instructions which do go far to indicate the control it seeks to establish. For instance, the manual provided that no truckman might turn his van over to his helper or other person without specific authority from the General Office; that when drivers were on parking lots and had time available it was expected that they would help other drivers in loading and unloading without additional compensation; that in case they were operating into or out of any location where there was a strike in progress, the truckman must get in contact with the union representative and obtain and abide by his instructions; that they must patronize designated parking lots and purchase as much gas as possible from such lots; that they must take the most practicable routes between points except as otherwise dispatched. The manual also provided rather specific procedures to

be followed from the time the truckman received his instructions to load until he finished the job and prepared for another. It described a uniform said to have been adopted by the Company, although it did not say by whom it must be worn.

While it is true that many provisions of the manual, if strictly enforced, would go far to establish an employer-employee relationship between the Company and its truckmen, we agree with appellee that there was evidence to justify the court's disregarding of it. It was not prepared until April 1940, although the tax period involved was from November 1937, through March 1942, and there was no evidence to show any change or tightening of controls after its adoption and distribution; one driver testified that he was never instructed to follow the rules therein provided; an officer of the Company testified that it had been prepared by a group of three men no longer in their employ, and that it had been impractical and was not adhered to.

Appellant also contends that appellee obtained its certificate of public convenience and necessity for operation as a common carrier on the strength of assertions of its counsel in 1935, that the relationship of employer-employee existed between it and its truckmen. A reading of the opinion of the Commission published at that time does not bear out this contention. See Greyvan Lines, Inc., Common Carrier Application, 32 M. C. C. 719. It appears to us that the Commission clearly contemplated the use by the Company of leased equipment, operated by the owners thereof, under the direction of "applicant's own employees," who caused the drivers to comply "with such company rules as would insure efficient operation." We do not understand that § 206 of the Interstate Commerce Act, as added in 1935, 49 U. S. C. A. § 306, requiring the issuance of a certificate of convenience and necessity for all common carriers by motor vehicle, requires that such carriers may operate only through their own employees, as distinct from independent contractors, so long as such independent contractors operate under the general supervision of the carrier's employees. § 303 which defines the term "common carrier by motor vehicle" (§ 303, subd. 14), also defines "services" and "transportation" to which the chapter applies to include "all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or of contract. * * *" (§ 303, subd. 19). In view of these definitions, we find nothing inconsistent in the operation of a common carrier service through the medium of independent contractors, as here engaged.

Appellee relies very strongly upon United States v. Mutual Trucking Co., 141 F. 2d 655, where the Court of Appeals for the Sixth Circuit affirmed a judgment for refund of taxes held to have

been illegally collected from another trucking company which carried on its business through owner-operators. Appellant says the facts are very different. It is true that the facts there do not present as close a question as in the case at bar. There it appears that the trucking company was a contract, rather than a common carrier, and the contract under which the company and its truckmen operated specified that the latter were contractors only, and not agents or employees of the company, and also that the owner-operators assumed full responsibility for all social security taxes, and the evidence showed that eleven of them actually paid such taxes on the wages of their helpers. Even so, we think the reasoning of the court applies with equal force here as to the significance of the control of the owner-operators over the helpers engaged by them. We think the true employer-employee relationship arises at that level in both cases (Williams v. United States, 126 F. 2d 129), and that the Company cannot be held liable for employment taxes on the wages of persons over whom it exerts no control, and of whose employment it has no knowledge. And this element of control of the truckmen over their own helpers goes far to prevent the employer-employee relationship from arising between them and Company. While many factors in this case indicate such control as to give rise to that relationship, we think the most vital one is missing because of the complete control of the truckmen as to how many, if any, and what helpers they make use of in their operations. Except for the actual driving of the trucks, the contract imposes no restrictions whatever on the employment of helpers. We think it cannot be said that a truckman to whom is left the determination of whether to do the work himself or engage others to do it is a mere employee. And when no report is required or expected as to those helpers, their identity, the work performed by them, their hours of work, we think the Company cannot be required to pay employment taxes based on their labor. The breaking down of the payments to the truckmen to differentiate between wages and profits from the use of their equipment appears to us to be equally arbitrary.

We agree with the District Court that the relationship of employer and employee did not exist between the Company and the truckmen or their helpers. We find no error in the findings challenged by appellant.

Judgment affirmed.

A true Copy:
Teste:

Clerk of the United States Circuit Court of Appeals for the Seventh Circuit.

And on the same day, to wit: On the twelfth day of July 1946, the following further proceedings were had and entered of record, to wit:

Friday, July 12, 1946

Court met pursuant to adjournment.

Before: Hon. WILLIAM M. SPARKS, Circuit Judge; Hon. J. EARL MAJOR, Circuit Judge; Hon. OTTO KERNER, Circuit Judge.

8779

GREYVAN LINES, INC., PLAINTIFF-APPELLEE

vs.

CARTER H. HARRISON, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE, DEFENDANT-APPELLANT

Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division

This cause came on to be heard on the transcript of the record from the District Court of the United States for the Northern District of Illinois, Eastern Division, and was argued by counsel.

On consideration whereof, it is ordered and adjudged by this Court that the judgment of the said District Court in this cause appealed from be, and the same is hereby, affirmed.

[Clerk's certificate to foregoing transcript omitted in printing.]

In the Supreme Court of the United States

October Term, 1946

Order enlarging time within which to petition for a writ of certiorari

On consideration of the motion of the Solicitor General in the above case, and good cause therefor having been shown, it is ordered that the time within which a petition for a writ of certiorari may be filed herein on behalf of the Collector of Internal Revenue be and the same is hereby extended for a period of sixty days from October 12, 1946.

Dated this 19th day of September 1946.

WILEY RUTLEDGE,
Associate Justice,
Supreme Court of the United States.

Supreme Court of the United States

No. 673, October Term, 1946

Order allowing certiorari

Filed December 16, 1946

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit is granted. The case is transferred to the summary docket and assigned for argument immediately following No. 312.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

U. S. GOVERNMENT PRINTING OFFICE: 1947